

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 16-06**

AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE TO ESTABLISH A PARKS AND RECREATION FEE

WHEREAS, Park maintenance and operations funding from the General Fund is limited; and

WHEREAS, Tigard has been unable to maintain park service levels for existing park land; and

WHEREAS, Tigard has added park land without an adequate revenue source to maintain and operate the parks; and

WHEREAS, Tigard has determined to fund a portion of parks maintenance and operations through a Parks and Recreation Fee; and

WHEREAS, The amount of the fee will pay for a portion of the existing level of parks maintenance, operations, and recreation; and

WHEREAS, The fee will also pay for parks maintenance and operations services that have been deferred due to limited resources; and

WHEREAS, The fee will be paid by residential and non-residential utility customers within the City of Tigard; and

WHEREAS, The fee will be adjusted annually to account for inflation and any new maintenance costs caused by changes in parks such as additional parks or newly developed parks or new or expanded parks operations; and

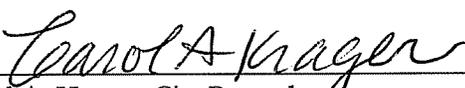
WHEREAS, Council may establish a program to provide assistance to lower income utility bill payers to be paid from Parks and Recreation Fee revenues.

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

SECTION 1: Chapter 3.75 of the Tigard Municipal Code is hereby created as provided in Exhibit A.

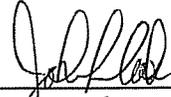
SECTION 2: This ordinance shall be effective 30 days after its passage by the council, signature by the mayor, and posting by the city recorder.

PASSED: By unanimous vote of all council members present after being read by number and title only, this 9th day of February, 2016.



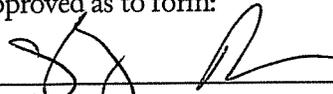
Carol A. Krager, City Recorder

APPROVED: By Tigard City Council this 9th day of February, 2016.



John L. Cook, Mayor

Approved as to form:



City Attorney

2/9/2016

Date

Exhibit A

Chapter 3.75 PARKS AND RECREATION FEE

Sections:

- 3.75.010 Creation and Purpose**
- 3.75.020 Definitions**
- 3.75.030 Administrative Officers Designated**
- 3.75.040 Parks and Recreation Fees Allocated to the Parks Fund**
- 3.75.050 Determination of Parks and Recreation Fee**
- 3.75.060 Determination of Amount, Billing and Collection of Fee**
- 3.75.070 Waiver of Fees in Case of Vacancy**
- 3.75.080 Administrative Provisions and Appeals**
- 3.75.090 Administrative Policies**
- 3.75.100 Penalty**
- 3.75.110 Severability**

3.75.010 Creation and Purpose

A Parks and Recreation Fee is created and imposed for the purpose of maintenance of city parks. The Parks and Recreation Fee shall be paid by the responsible party for each occupied unit of real property. The purposes of the Parks and Recreation Fee are to charge for the service the city provides in maintaining public parks and to ensure that maintenance occurs in a timely fashion, thereby reducing increased costs that result when maintenance is deferred.

3.75.020 Definitions

As used in this chapter, the following shall mean:

A. Public Works Director. The public works director or the public works director's designee.

B. Developed property or developed use. 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.

C. Equivalent Dwelling Unit. Equivalent Dwelling Units (EDUs) are the basis for equally apportioning annual Parks and Recreation Fee revenue requirements among customer groups.

D. Finance Director. The finance and information services director or designee.

E. Residential Property. Property that is used primarily for personal domestic accommodation, including single family, multi-family residential property and group homes, but not including hotels and motels.

F. Nonresidential Property. Property that is not primarily used for personal domestic accommodation. Nonresidential property includes industrial, commercial, institutional, hotel and motel, and other nonresidential uses.

G. Occupied Unit. Any structure or any portion of any structure occupied for residential, commercial, industrial, or other purposes. For example, in a multifamily residential development, each dwelling unit shall be considered a separate occupied unit when occupied, and each retail outlet in a shopping mall 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 one occupied unit. Property that is undeveloped or, if developed, is not in current use is not considered an occupied unit.

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H. 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 and/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 the writing is filed with the city. Any person who has agreed in writing to pay is considered the responsible person if a copy of the writing is filed with the city.

I. Park Maintenance. Any action to operate and maintain city parks, including, but not limited to repair, renewal, replacement, reconstruction, minor improvements, programing, recreation and other park activities. Park maintenance does not include the capital development, construction or acquisition of new parks or undeveloped parks.

3.75.030 Administrative Officers Designated

A. Except as provided in subsections B and C of this section, the public works director shall be responsible for the administration of this chapter. The public works director shall be responsible for developing administrative procedures for the chapter, administration of fees, and for the purposes of establishing the fee for a specific occupied unit, the consideration and assignment of categories of use, and parking space requirements subject to appeal in accordance with this chapter.

B. The public works director shall be responsible for developing and maintaining park

maintenance programs for the maintenance of city parks and, subject to city budget committee review and city council approval, allocation and expenditure of budget resources for park system maintenance in accordance with this chapter.

C. The finance director shall be responsible for the collection and calculation of fees and the appeals process under this chapter.

3.75.040 Parks and Recreation Fees Allocated to the Parks Fund

A. All Parks and Recreation Fees received shall be deposited to the parks fund or other fund for the purpose of operation and maintenance of the city park system. The parks fund shall be used for park maintenance. Other revenue sources may also be used for park maintenance. Amounts in the parks fund may be invested by the finance director in accordance with state law. Earnings from such investments shall be dedicated to the Parks and Fund.

B. The parks 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 park maintenance program.

3.75.050 Determination of Parks and Recreation Fee

A. For residential and non-residential property, the fee shall be charged on a per equivalent dwelling unit (EDU) basis. For single family and multifamily accounts, each occupied unit within the residential property is one EDU. The calculation of an EDU for commercial and industrial accounts will be defined in the Master Fees and Charges Schedule.

Exhibit A

B. The Parks and Recreation Fee rates shall be established by council resolution and shall be calculated based on all or a part of:

1. The city's projected five-year maintenance forecast plan for operations and maintenance of the city's park system; and

2. Any new maintenance costs incurred during the five-year program. New costs include, but are not limited to, maintenance of additional park land, new park development of existing park land, and new or expanded programming and operations. These will be addressed annually based on estimates from the public works director.

C. The Parks and Recreation Fee rate shall be annually adjusted to account for new costs (as identified in 3.75.050.B.2) and according to an annual index as defined in the Master Fees and Charges, effective the first billing cycle following July 1st of each year, starting July 1, 2017.

D. Council may establish a program to reduce the Parks and Recreation Fee for lower income utility payers. The program may be administered by city staff or a qualified non-profit. The program may be defined in the city's Master Fees and Charges Schedule.

E. The program shall be reviewed annually as part of the city's budget process.

3.75.060 Determination of Amount, Billing and Collection of Fee

A. The Parks and Recreation Fee shall be billed to and collected from the responsible party for each occupied unit. Billings shall be included as part of the utility bill for occupied units utilizing city water and/or sewer, and billed and collected separately for those occupied units not utilizing city water and/or sewer. All such bills

shall be rendered regularly by the finance director and shall become due and payable upon receipt.

B. Collections from utility customers will be applied first to interest and penalties, then proportionately among the various charges for utility services and park maintenance.

C. An account is delinquent if the Parks and Recreation Fee is not paid by the due date shown on the utility bill. The city may follow the procedures for collection of delinquent accounts set forth in Sections 12.03.030 and/or 12.03.040, including termination of water and/or sanitary sewer service.

3.75.070 Waiver of Fees in Case of Vacancy

A. Pursuant to subsection F of this section, when any developed property within the city becomes vacant, upon written application and approval by the finance director, the Parks and Recreation Fee shall thereafter not be billed and shall not be a charge against the property.

B. The finance director is authorized to cause an investigation of any property for which an application for determination of vacancy is submitted to verify any of the information contained in the application. The finance director 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 provided therein.

C. When any developed property within the city has the utilities shut-off due to vacancy, the Parks and Recreation Fee shall be waived for the duration of the vacancy as described in subsection F of this section.

Exhibit A

D. When any multi-occupied developed property within the city has one or more vacancies as described in subsection F of this section, the responsible party may request, in writing, a waiver of a portion of the Parks and Recreation Fee applicable to the vacant units.

E. When a change of use occurs, a vacancy has been filled, or a property is developed, it is the responsible party's responsibility to inform the city of any change so the proper Parks and Recreation Fees may be assessed. If the responsible party does not inform the city of any change, the city shall cancel the vacancy waiver and charge the responsible party as per subsection F of this section.

F. For purposes of this section, a unit of property is vacant when it has been continuously unoccupied and unused for at least 30 days. Fees shall be waived in accordance with this section only while the property remains vacant. The waiver duration is for six months. After six months, the responsible party must re-apply for the waiver if the property continues to be unoccupied and unused. The responsible party has 30 days to re-apply for the vacancy waiver after the expiration of the six month waiver. Any occupancy or use of the property terminates the waiver. As a penalty for not reporting a change in property vacancy, the city may charge any property two times the appropriate Parks and Recreation Fee that would have been due without the vacancy waiver for prior billing periods upon determining by whatever means that the property did not qualify for waiver of charges during the relevant time. The decision of the finance director under subsections A, B, C, D and F of this section shall be final. (Ord. 10-08 §1, 2010; Ord. 10-01 §2)

3.75.080 Administrative Provisions and Appeals

A. The responsible party for an occupied unit may request reconsideration of the amount of

the fee by submission of a written application to the finance director. The application shall be submitted in sufficient detail to enable the finance director to render a decision.

B. To address the submitted request, the city may follow the procedures for utility charge adjustments set forth in Section 12.03.040.

3.75.090 Administrative Policies

A. The following policies shall apply to the operation and scope of this chapter:

1. Parks and Recreation fees imposed under this chapter shall apply to all occupied units, occupied units owned and/or occupied by local, state and federal governments, as well as property which may be entitled to exemption from or deferral of ad valorem property taxation.

2. Publicly owned park land, open spaces and greenways shall not be subject to the Parks and Recreation Fee.

3. Areas encompassing railroad and public right-of-way shall not be subject to the Parks and Recreation Fee.

4. Railroad property containing structures, such as maintenance areas, non-rolling storage areas and areas used for the transfer of rail transported goods to non-rail transport shall be subject to Parks and Recreation Fees.

5. For newly developed properties, the fees imposed under this chapter shall become due and payable from and after the date when the developed property is occupied and connected to the public water or sanitary sewer system.

B. The public works director and the finance director are authorized and directed to review the operation of this chapter and, where appropriate, recommend changes thereto in the

Exhibit A

form of administrative policies for adoption of the city council by resolution. Administrative policies are intended to provide guidance to property owners, subject to this chapter, as to its meaning or operation, consistent with policies expressed herein. Policies adopted by the council shall be given full force and effect, and unless clearly inconsistent with this chapter, shall apply uniformly throughout the city.

3.75.100 Penalty

In addition to any other remedy, violation of any provision of this chapter shall be a Class A civil infraction. Each day of delinquency in paying the Parks and Recreation Fee constitutes a separate violation.

3.75.110 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 chapter shall continue to be effective. If a court of competent jurisdiction determines that this chapter imposes a tax or charge, which is therefore unlawful as to certain but not all affected properties, then as to those certain properties, an exception or exceptions from the imposition of the Parks and Recreation Fee shall thereby be created and the remainder of the chapter 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. ■