

ORDINANCE NO. 2018-19

AN ORDINANCE AMENDING TITLE 8 CHAPTER 10 “TRANSPORTATION UTILITY” SUBSECTION 4 “TRANSPORTATION UTILITY FEE” OF THE PLEASANT GROVE MUNICIPAL CODE MODIFYING THE LANGUAGE REGARDING THE BASIS FOR THE BUSINESS FEE ASSESSMENT FOR THE PURPOSE OF UNDERTAKING REPAIR, MAINTENANCE AND IMPROVEMENT OF CITY STREETS; ESTABLISHING AN ANNUAL REVIEW PROCESS; AND RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the condition of Pleasant Grove City’s street network has been declining as demonstrated by the engineering analysis done to calculate pavement condition index (PCI) conducted in 2012 and subsequent updates; and

WHEREAS, regular maintenance of streets is cost-effective for the city and its citizens because deteriorated streets are increasingly expensive to repair and maintain, cause increased wear on vehicles, and pose increased safety hazards to the public; and

WHEREAS, it is responsibility of the city to ensure safe passage for its citizens on public right-of-way falling within its jurisdiction; and

WHEREAS, a well maintained street network enhances the livability, property values and economic vitality of the community; and

WHEREAS, Revenues from existing sources (including state motor fuel tax) are not adequate to maintain the city street network to meet the quality standards recommended by the engineering analysis; and

WHEREAS, the city council has indicated a desire to maintain the city’s transportation utility infrastructure by creating a stable road maintenance funding source, by looking at alternative funding mechanisms, by developing a street maintenance plan, and secure adequate and stable funding with citizen input and community outreach; and

WHEREAS, it is the intent of the city council to create a utility with all lawful powers to manage, plan, design, construct, maintain, and repair by the creation of a funding mechanism that provides the resources necessary to carry out the objectives of a street maintenance and repair system which is equitable for all citizens and businesses in the city; and

WHEREAS, Utah Code Section 10-6-108 enables a city such as Pleasant Grove to establish and fund municipal utilities; and

WHEREAS, Pleasant Grove City has determined that there is a need to fund transportation costs including road and street maintenance over and above the existing funding mechanisms provided by the existing funding sources; and

WHEREAS, the city council has determined that the best way to fund these expenses is with a fee paid by those who use the roads and streets within the city; and

WHEREAS, the city council finds that land uses which generate motor vehicle trips on the public roads is an appropriate way to identify the users of the City's roads and streets.

WHEREAS, on February 13, 2018, February 15, 2018, and February 21, 2018, the city held meetings and an open house to seek input from businesses and residents regarding the proposed transportation utility fee; and

WHEREAS, on March 27, 2018, the Pleasant Grove City Council held a public hearing to consider public comment on establishing a transportation utility fee for the purpose of funding road maintenance and repair; and

WHEREAS, on April 10, 2018, the Pleasant Grove City Council adopted Ordinance Number 2018-10 establishing the Transportation Utility and providing for a user fee; and

WHEREAS, since that date, further review of the equities involved in calculating the fee requires some modifications to the language of the original ordinance to ensure that the user fee is based upon intensity of use of the utility; and

WHEREAS, the Pleasant Grove City Council is satisfied that the proposed ordinance is in the best interest of the health, safety and welfare of the citizens of Pleasant Grove,

NOW, THEREFORE, BE IT ORDAINED by the City Council of Pleasant Grove City, Utah County, State of Utah, as follows:

SECTION 1: Title 8 Chapter 10 "Transportation Utility" of the Pleasant Grove Municipal Code, is hereby enacted as follows:

CHAPTER 10 TRANSPORTATION UTILITY

SECTION:

8-10-1: Purpose

8-10-2: Definitions

8-10-3: Transportation Utility

8-10-4: Transportation Utility Fee

8-10-5: Billing

8-10-6: Annual Report and Gas Tax Revenues

8-10-7: Appeals

8-10-1: **PURPOSE:** The purpose of this chapter is to establish a comprehensive transportation utility service with the purpose and power of undertaking such maintenance, repair and improvement of city streets and related facilities as may be necessary and proper, with such mandate to include, without limitation, the following activities: patching, crack sealing, seal

coating, over-laying, and other activities as necessary in order that the local streets may be properly maintained to safeguard the health, safety and welfare of the City and its inhabitants.

8-10-2 **DEFINITIONS:** The following word and phrases shall be defined as follows:

STREET: Any street, avenue, boulevard, road, lane, parkway, viaduct, alley, or other way for the movement of vehicular traffic, or a street or way shown upon a plat, heretofore approved, pursuant to law or approved by official action; and includes the land between street lines, whether improved or unimproved, and may comprise pavement shoulders gutter, parking areas, and other areas within the right-of-way. For the purposes of this section, sidewalks are not considered part of the streets.

TRIP-END 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 (1) pass by a traffic counter. Two (2) 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.

PEAK DAY AVERAGE TRIPS (PDAT) The amount of traffic a residence or commercial business would generate at the Peak Day Average

8-10-3 **TRANSPORTATION UTILITY:**

- A. Created: The city council hereby creates and establishes a transportation utility as part of the city overall utility system. Revenues shall be used for the purposes of operation, repair, improvement, and maintenance of existing city streets.
- B. Special Revenue Fund: The city council hereby establishes a transportation utility special revenue fund to handle all income, expenses and other financial transactions related to the transportation utility. All transportation utility charges shall be deposited in the Transportation Utility Revenue Fund and shall not be comingled with or transferred to other city funds, including but not limited to, the general fund. However, the transportation utility fund may pay other city funds for services and expenses directly attributable to the transportation utility. It shall not be required that the operations, improvement, and maintenance expenditures from the fund specifically relate to any particular property from whom the fees were collected.
- C. Administration: The transportation utility shall be administered by the public works director.

8-10-4 **TRANSPORTATION UTILITY FEE:**

- A. Imposed: Each business located within the municipal boundaries of Pleasant Grove City and each residential address within the city shall be charged a transportation utility fee based upon the average peak day trip-ends intensity of use as determined by the engineering study establishing use categories.
- B. Fee Established: The Transportation Utility Fee shall be established by resolution of the city council and be included in the Master Fee Schedule adopted by the council. Said fee shall be based upon intensity of use of the city streets.

8-10-5

BILLING AND COLLECTION:

- A. The city council finds that the city transportation utility system is an interrelated service with the other utilities that the city provides and is part of a unified plan to provide for the health, safety and welfare of the city and its residents. In the regular utility bill for the property, the transportation utility fee shall be charged to the owner of the property. Utility payments made to the city shall be credited towards the transportation utility fee first and the remainder credited towards the other city utilities. The fee shall be deemed a civil debt owed to the city by the person or entity paying for the city utility services provided to the property. Failure of any person responsible for the payment of city utilities to timely pay the charges when due shall subject such person to discontinuance of utility services provided by the city, consistent with city policies regarding termination of utility services.

8-10-6

ANNUAL REPORT

- A. Each year during the annual budget process, the city council shall receive an annual report detailing the income and expenditures of the fund. This report shall be in writing and shall be presented at a meeting of the city council by representatives of the Public Works Department.

8-10-7

APPEALS

- A. A property owner desiring an interpretation or other examination of the fee category to which they have been assigned, must submit a written application for Appeal to the City Administrator. Such appeals may be filed only once in connection with any fee or determination, except upon showing of changed circumstances sufficient to justify the filing of an additional appeal.
- B. Such petition shall be in writing and filed with the City Administrator within thirty (30) days of the date of the utility bill containing the disputed charge or the date of the challenged determination. The application must provide sufficient detail to allow an interpretation. The City administrator may require additional information, including an engineering study prepared by a licensed professional engineer using the ITE manual methodology. If such a study is required, it shall be at the applicant's expense. The petitioner shall have the burden to prove that the amount of the fee or the use category is in error.
- C. The Appeal will be considered by the Transportation Utility Appeal Board consisting of: City Engineer, City Community Development Director and City Administrator. Within 30 days of the submission of an appeal application with the required information, the Board will make a final decision on the appeal application. Said decision will be based upon findings of fact and all relevant information. The Board may modify the fee or category of use accordingly. A copy of the decision will be mailed to the applicant. Such determination by the Board shall be considered a final order.

SECTION 2: SEVERABILITY. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phases of his Ordinance.

SECTION 3: EFFECTIVE DATE. This ordinance shall take effect immediately upon its passage and shall be posted or published as required by law. The Transportation Utility Fee will be imposed and the amount of the fee established separately by resolution. No fees will be imposed or collected until said resolution is formally adopted by the council.

APPROVED AND ADOPTED AND MADE EFFECTIVE by the City Council of Pleasant Grove City, Utah County, Utah, this 17th day of July, 2018.

Guy L. Fugal, Mayor

ATTEST:

(SEAL)

Kathy T. Kresser, City Recorder, MMC

RESOLUTION NO. 2018-045

**A RESOLUTION OF THE PLEASANT GROVE CITY COUNCIL
RESCINDING RESOLUTION 2018-021 WHICH ESTABLISHED A
TRANSPORTATION UTILITY FEE AND ADOPTING AN AMENDED
RESOLUTION ESTABLISHING A TRANSPORTATION UTILITY
SPECIAL REVENUE FUND AND ADOPTING A TRANSPORTATION
UTILITY FEE.**

WHEREAS, in 2012 an engineering study was conducted by JUB Engineers which confirmed the need for the city to invest additional funding to maintain streets in order to preserve the Remaining Service Life (RSL) of city streets; and

WHEREAS, a road fee analysis was conducted in 2016 by Lewis, Young, Robertson, and Burningham, Inc. with the purpose to establish an equitable, sustainable and transparent method to maintain the existing roadway system within the city; and

WHEREAS a fundamental role of local government is to provide for safe and well-maintained streets to meet the transportation needs of the general public and commerce; and

WHEREAS, the Pleasant Grove City Council recognizes that there is uncertainty regarding the future stability of federal and state funding sources for municipal street maintenance; and that additional funding for street maintenance is necessary for the continual maintenance and operations of City streets; and

WHEREAS, the city hosted several open houses and meetings to present and explain the transportation utility fee to the public and held a public hearing on March 27, 2017 to listen to public comment and feedback on the issue; and

WHEREAS, on April 10, 2018, the Council held a duly noticed public meeting to consider this matter, and after considering the facts and comments presented, the Council finds: (i) that a Transportation Utility Fee shall be adopted to provide for the maintenance, repair, and improvement of Pleasant Grove City streets; and that (ii) this fee is in the best interests of the residents of Pleasant Grove City and will reasonably further the safety and general welfare of the City; and

WHEREAS, public comment has been received that indicates that citizens would be in favor of a transportation utility fee if the funds were specifically dedicated to road maintenance and repair and not available for other general fund expenditures; and

WHEREAS, in response to public comment, the city council desires to establish a special revenue fund, therefore, the Council finds: (i) the "Transportation Utility Fund" shall be established to provide for the maintenance, repair, and improvement of Pleasant Grove City streets and that (ii) this fund is in the best interests of the residents of Pleasant Grove City and will reasonably further the safety and general welfare of the citizens of the city; and

WHEREAS, on or about April 10, 2018, the council adopted Resolution 2018-021 establishing a special revenue fund and establishing a transportation utility fee; and

WHEREAS, said fee was to take effect July 1, 2018; and

WHEREAS, further evaluation of the adopted fee resulted in a determination that the fee was inequitable in some instances with regard to the business tier system; and

WHEREAS, it has been determined that there is a more equitable method of assessment based upon estimated actual use rather than predetermined categories.

NOW THEREFORE, BE IT RESOLVED by the Pleasant Grove City Council as follows:

SECTION 1. Resolution Number 2018-021 is hereby RESCINDED. This Resolution supersedes the provisions of Resolution 2018-021.

SECTION 2. The Transportation Utility Special Revenue Fund is hereby established and adopted.

- a. The Revenue Fund is subject to the statutory regulations of the State of Utah regarding municipal revenue funds and the funds deposited may only be used for the costs of maintenance and repair of the city street network, including engineering fees, but may not be used for general fund expenditures that do not relate to road maintenance and repair. All transportation utility charges shall be deposited in the Transportation Utility Revenue Fund and shall not be comingled with or transferred to other city funds, including but not limited to, the general fund. However, the transportation utility fund may pay other city funds for services and expenses directly attributable to the transportation utility. It shall not be required that the operations, improvement, and maintenance expenditures from the fund specifically relate to any particular property from whom the fees were collected.

SECTION 3. The Transportation Utility Fee is hereby adopted as follows:

Commercial use tiers are based upon the intensity of use for the business type using the ITE manual as a guideline as determined in the Road Fee Analysis produced by the City's consultant firm. Multi-family residential developments shall be charged the residential fee on a per unit basis.

Road Fee Per Month-Residential	\$ 8.45
Tier 1 Business Road Fee Per Month	\$ 41.27
Tier 2 Business Road Fee Per Month*	\$ 236.05

*Tier 2 businesses include: gas station/convenience stores; restaurants with drive thru service; users with more than 250 parking stalls (churches will be considered Tier 1 users because their higher intensity of use is limited to primarily a single day per week). Tier 1 businesses include all other commercial users who do not qualify as Tier 2.

Fee termination: The fee can be terminated by the city council if it is determined that the funding is no longer needed to maintain the street system.

Effective Date: The fee will be effective as of August 1, 2018.

Section 4. SEVERABILITY. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phases of his Ordinance.

PASSED AND ADOPTED by the City Council of Pleasant Grove City, Utah this 17th day of July, 2018.

Guy L. Fugal, Mayor

ATTEST:

Kathy T. Kresser, City Recorder, MMC

(SEAL)