

ORDINANCE 2022 – 11

AN ORDINANCE AMENDING CHAPTER 82 OF THE COMMERCE CODE OF ORDINANCES BY ADDING ARTICLE VI, “STREET MAINTENANCE FUND”, SECTION 82-150 “STREET MAINTENANCE FEE”,; PROVIDING A SERVERABILITY CLAUSE.

WHEREAS, the City of Commerce is a home rule municipality with the power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code, and the City of Commerce Charter; and

WHEREAS, Chapter 82, Code of Ordinance, City of Commerce, regulates various aspects of city streets and sidewalks; and

WHEREAS, the City Council conducted a workshop on June 7, 2022 to discuss the creation of a Street Maintenance Fund that would be dedicated to the support of street maintenance; and

WHEREAS, the City conducted a Community Satisfaction Survey in April 2022. The results of that survey indicated that the highest amount of dissatisfaction was with the condition and maintenance of City streets, and road maintenance was the most important service to invest additional resources; and,

WHEREAS, the use of taxes as the sole funding source for street maintenance results in a resource burden that is not equitably distributed among the users of the street network. Those that use the streets and generate traffic loads should help pay for the maintenance of the street network; and,

WHEREAS, the creation of a Street Maintenance Fund allows for the development of user fees that more equitably distribute the resource burden, provides restrictions on the use of funds that are generated, and provide accountability for the use of the funds; and,

WHEREAS, the City proposes to use data from the Institute of Transportation Engineers related to commercial trip generation as the basis for developing an equitable Street Maintenance Fee; and

WHEREAS, the City Council finds it in the public’s best interest to create a Street Maintenance Fund and to implement a Street Maintenance Fee program to provide dedicated funds for the future maintenance of the city street network.

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

SECTION 1. Chapter 82, "Streets, Sidewalks, and Certain Other Public Places" of the City of Commerce Code of Ordinances is hereby amended to add Article VI, "Street Maintenance Fund," Section 82-150 "Street Maintenance Fee" as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

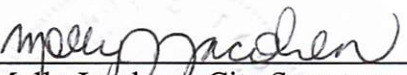
SECTION 2. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council of the City of Commerce hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

PASSED AND APPROVED on the first reading at a regular meeting of the City Council of the City of Commerce, Texas on this the 16th day of August, 2022.

PASSED AND APPROVED on the second reading at a regular meeting of the City Council of the City of Commerce, Texas on this the 20th day of September, 2022.

ATTEST:

CITY OF COMMERCE:


Molly Jacobsen, City Secretary


Teddy Reel, Mayor

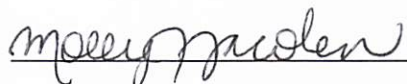
(seal)

Approved as to Form:


Charles Anderson, City Attorney

I, Molly Jacobsen, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of a Resolution, and that the same has not been repealed and is in full force and effect.

(Seal)


Molly Jacobsen, City Secretary

ORDINANCE NO. 2022-11
EXHIBIT A

Sec. 82-150. – Street Maintenance Fee.

(a) *Definitions.*

Benefitted property, or property means a property located within the city limits that reasonably benefits from vehicular or pedestrian traffic or use.

Category or categories means one of the many categories as may be modified from time to time, recognized in the ITE Trip Generation Manual trip factor index determined from the land uses of the utility customers.

City limits means the corporate boundaries of the City of Commerce, Texas.

Municipal Services Statement means the monthly invoice that residences and businesses receive for services provided by the City, which may include water and wastewater, solid waste, drainage, and other municipal services and charges.

Street maintenance fee means a fee that is established by this section and which is assessed against, and collected from, owners or occupants of a property for the purpose of funding the planning, construction, operation, monitoring and maintaining of the transportation system of the City.

Transportation system means the structures, traffic controls, streets and other facilities in the public right-of-way, including but not limited to bridges, sidewalks and alleys, which are dedicated to the use of vehicular and pedestrian traffic, all of which are owned and/or controlled by the City, and including provisions for additions, improvements and extensions to the system.

Trip factor means a principal basis of service measurement, principally derived from the average weekday trip rates calculated using the Institute of Transportation Engineers Trip Generation Manual Edition 10 as modified by the City.

Trip factor index means the table of applied land uses recognized by the City for purposes of implementing the Street maintenance fee.

Utility account means an account or accounts between a customer and the City for services provided by the City, which may include water and wastewater, solid waste, drainage, street maintenance, and other municipal services and charges.

Utility customer ("Customer") means the holder of a utility account or the person who is responsible for the payment of charges of a utility account.

(b) *Establishment and revision of street maintenance fee.*

- (1) The City has established a street maintenance fee to be paid by utility customers within the city limits. Such fee shall be set in amounts which will provide funds to properly maintain the transportation system.
- (2) Collection of the fee shall be made by a monthly charge to be added to the city Municipal Account Statement.
- (3) There is established a street maintenance fee schedule based upon the cost of properly maintaining the transportation system as shown in item (k) below and which may be changed or modified annually by the City Council.

(c) *Street Maintenance Fund*

- (1) A separate and dedicated fund shall be created effective October 1, 2022, to be known as the Street Maintenance Fund. All fees collected by the City for the purpose of construction and maintenance of the transportation system shall be deposited in the Street Maintenance Fund. It shall not be necessary or required for the expenditures from the fund to specifically relate to any particular property from which the fees were collected.

(a) Billing will begin for commercial and residential accounts on October 1, 2022.

- (2) A report of the Street Maintenance Fund and the street maintenance fee program will be provided to the City Council on an annual basis.

(d) *Imposition of fee.* There is hereby imposed upon the utility customers within the city limits, a street maintenance fee. This fee is deemed reasonable and necessary to pay for the operation, administration and maintenance of the transportation system.

(e) *Findings.*

- (1) The number of motor vehicle trips generated by a benefitted property may reasonably be used to estimate the prorated cost of the street system attributable to a benefitted property.
- (2) The size and use of a benefitted property may reasonably be used to estimate the number of motor vehicles trips generated by the property.
- (3) Based on the best available data, the method of imposing the street maintenance fee reasonably prorates the cost of the transportation system among the benefitted properties.
- (4) It is reasonable and equitable to impose a set monthly fee per each residential and nonresidential benefitted property in order to avoid a disproportionate burden on any

residential or nonresidential benefitted property.

- (5) If available, appraisal district property tax records may be relied upon to determine the size of nonresidential benefitted property.
 - (6) It is reasonable and equitable to consider trip generation rates for nonresidential property from the Institute of Transportation Engineers in determining the trip factor used for benefitted properties.
- (f) *Determination of street maintenance fee.*

- (1) The street maintenance fee for **residential** property shall be charged monthly to a utility customer within the city limits, or to the person or entity responsible for the Municipal Account Statement for such lot, unit, tract, or parcel used for a residential purpose. Residential property is defined on the Street Maintenance Fee Schedule as Rate Codes R1, MF, and DR (Dorm Room).

The calculation of the street maintenance fee for **residential** property is determined by multiplying the per month fee for the Rate Code by the multiplier identified in the Street Maintenance Fee Schedule, and further defined as follows: R1 units are charged per non-irrigation meter, MF and DR units are charged per dwelling unit.

- a) For example, a single-family residence (Rate Code R1) with one non-irrigation meter is charged \$5.00 per month ($\$5.00 \times 1 = \5.00).
 - b) For example, a multi-family residential property (Rate Code MF or DR) with 100 dwelling units is charged \$500.00 per month ($\$5.00 \times 100 = \500.00).
- (2) The street maintenance fee for **nonresidential** property shall be charged monthly to a utility customer within the city limits, or to the person or entity responsible for the Municipal Account Statement for such lot, unit, tract, or parcel used for a nonresidential purpose. The monthly fee for the nonresidential property is determined by its base trip rate range as shown in the attached Street Maintenance Fee Schedule Rate Codes (C1-C4), and further defined as follows:

	RATE CODE	BASE TRIP RATE RANGE
	C1	0 to 5.00
	C2	5.01 to 15.00
	C3	15.01 to 50.00
	C4	50.01 or greater

The calculation of the base trip rate for nonresidential property is determined by identifying the appropriate land use category on the Trip Factor Index for the property, multiplying the trip factor for that land use category by the unit of measure for that land use category.

The land use categories, trip factors, and units of measure listed on the Trip Factor Index are based on the Institute of Transportation Engineers Trip Generation Manual, 10th Edition, as modified by the City, and are the number of trips anticipated to and from a benefitted property per its land use and established units, as amended for local conditions.

The Trip Factor Index shall be created by separate resolution of the City Council and may be amended or modified as determined by the City Council. The current Trip Factor Index shall be kept on file with the city secretary.

- (3) The following mathematical formula shall be used to determine the base trip rating for the street maintenance fee program:

Base Trip Rate = (Unit of Measure X Trip Factor)

Base Trip Rates are calculated to the nearest hundredths of a decimal point and are rounded up.

(a) For example, a 2,500 square foot general office has a Trip Factor of 1.15 per 1,000 square feet of building area. In this example, the general office would have a Base Trip Rating of 2.88. $[(2,500 \text{ square feet} \div 1,000) \times 1.15 = 2.88]$. This general office would be charged Rate Code C1.

(b) For example, a 6,400 square foot Gas Service Station, with a Convenience Market has a Trip Factor of 88.35. In this example, the gas station would have a Base Trip Rating of 565.44. $[(6,400 / 1,000) \times 88.35 = 565.44]$. This gas station would be charged Rate Code C4.

- (4) Collection of the street maintenance fee contribution from Texas A&M University – Commerce (TAMU-C) properties shall be charged pursuant an annual calculation of all University dorm room units (DR) as well as a standard non-residential evaluation of all non-housing buildings. A report of the fee evaluation will be provided, and the total fee will be assessed as an annual amount that is billed each October.

(g) *Billing and collection of fee.* The fee shall be billed and collected with the monthly municipal account statement, and shall be due upon receipt.

(h) *Recovery of unpaid fee.* Any fee due hereunder which shall not be paid when due may be recovered in action at law by the City. In addition to any other remedies or penalties provided by this section or this Code, failure of any customer of the city utilities to pay the fees promptly when due shall subject such customer to the discontinuance of utility services provided by the City.

(i) *Request for Modification or Adjustment.* The city manager, or his or her designee, shall

consider a written request for a modification or adjustment of the payment of a street maintenance fee only for the following reasons:

- (1) the customer believes the street maintenance fee was charged in error; or
- (2) the customer disputes the category of land use used in calculating the fee for the owner's benefitted property.

Such written request for modification or adjustment must be received by the city manager no later than ten (10) Business Days from the date of delivery of the municipal account statement which is being disputed. The city manager shall make his or her decision based upon the information provided in the written request. The city manager may also, in his or her sole discretion, contact the customer directly for additional information. It is the responsibility of the customer to provide such documentation as may be necessary to prove the sufficiency of their request for an adjustment or modification.

The city manager shall determine and inform the customer in writing of his or her decision within 30 days from receipt of the written request for modification of adjustment.

Appeals of Requests. In matters relating to item (j)(1) above, the decision of the city manager shall be final, and no appeal may be taken therefrom. In matters relating to item (j)(2) above, the customer may file a written appeal to the City Council. Such written appeal must be received by the city manager no later than 10 business days from the delivery of the city manager's determination letter. The City Council shall hear the appeal at a public meeting within 60 days from the date of receipt of the written appeal. The decision of the City Council shall be final, and no further appeal may be taken.

During all periods of the request for modification or adjustment process, including any appeal, the customer shall be responsible for the payment of the street maintenance fee in full.

A customer appealing the street maintenance fee may not receive a refund resulting from the modification or adjustment except for a street maintenance fee billed within six months of the date of the customer's original written request for modification or adjustment to the city manager.

- (j) *Disposition of fees and charges.* The fees paid and collected by this section shall not be used for the general government administrative purposes of the city, except to pay for the equitable share of the cost of accounting, management and government thereof. Other than as described above, the fees and charges shall be used solely to pay for the actual costs of staff, operation, planning, engineering, development of guidelines and controls, inspection, maintenance, repair, improvement, additions, extensions, renewal, replacement and reconstruction of the transportation system and costs incidental thereto.

(k) Street maintenance fee schedule.

Street Maintenance Fee Schedule

STREET MAINTENANCE FEE SCHEDULE		
RATE CODE	MONTHLY RATE	MULTIPLIER
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C3	\$35.00	15.01 to 50.00
C4	\$45.00	50.01 or greater

Facility Name	SqFt	Units	Use	Code	Cost/Unit	Trip Factor	SMF Tier	Monthly Fee	Annual Fee
Whitley Hall		308	Dorm/Apart	MF	\$ 2.50			\$ 770.00	
Pride Rock		138	Dorm/Apart	MF	\$ 2.50			\$ 345.00	
Phase II		279	Dorm/Apart	MF	\$ 2.50			\$ 697.50	
Phase III		312	Dorm/Apart	MF	\$ 2.50			\$ 780.00	
Fling Hall		24	Dorm/Apart	MF	\$ 2.50			\$ 60.00	
Webster Hall		16	Dorm/Apart	MF	\$ 2.50			\$ 40.00	
Wray Hall		16	Dorm/Apart	MF	\$ 2.50			\$ 40.00	
Neu Hall		16	Dorm/Apart	MF	\$ 2.50			\$ 40.00	
Bledsoe Hall		16	Dorm/Apart	MF	\$ 2.50			\$ 40.00	
New Pride		100	Dorm/Apart	MF	\$ 2.50			\$ 250.00	
F-Halls		120	Dorm/Apart	MF	\$ 2.50			\$ 300.00	
Prairie Crossing		156	Dorm/Apart	MF	\$ 2.50			\$ 390.00	

\$ 3,752.50 \$ 45,030.00

Facility Name	SqFt	Units	Use	Code	Trip/Unit	Trip Factor	SMF Tier	Monthly Fee	Annual Fee
Craddock Hall	9,600		University	550	1.17	11.23	2	\$ 25.00	
Employee Services	7,500		University	550	1.17	8.78	2	\$ 25.00	
Nursing Building	3,825		University	550	1.17	4.48	1	\$ 15.00	
Rec Center	88,400		Rec Center	495	2.31	204.2	4	\$ 45.00	
Nursing Center	93,650		University	550	1.17	109.57	4	\$ 45.00	
Science Building	96,425		University	550	1.17	112.82	4	\$ 45.00	
Rayburn Student Center			University	550	1.17		4	\$ 45.00	
Austin Engineering	55,100		University	550	1.17	64.47	4	\$ 45.00	
Performing Arts	33,400		University	550	1.17	39.08	3	\$ 35.00	
Art Building	18,000		University	550	1.17	21.06	3	\$ 35.00	
Wathena Fine Arts	24,650		University	550	1.17	28.84	3	\$ 35.00	
Alumni Center	6,400		University	550	1.17	7.49	2	\$ 25.00	
President's House			Res					\$ 5.00	
Journalism Building	45,900		University	550	1.17	53.7	4	\$ 45.00	
Talbot Hall	39,150		University	550	1.17	45.81	3	\$ 35.00	
Binnion Hall	43,875		University	550	1.17	51.33	4	\$ 45.00	
Henderson Hall	48,600		University	550	1.17	56.86	4	\$ 45.00	
Ferguson Social Sciences	78,150		University	550	1.17	91.44	4	\$ 45.00	
Sowers Education	58,350		University	550	1.17	68.27	4	\$ 45.00	
Library	130,950		University	550	1.17	153.21	4	\$ 45.00	
Frank Young	54,000		University	550	1.17	63.18	4	\$ 45.00	
McDowell	100,500		University	550	1.17	117.59	4	\$ 45.00	
Art Sculpture Lab	14,950		University	550	1.17	17.49	3	\$ 35.00	
Music Performance Building	57,500		University	550	1.17	67.28	4	\$ 45.00	
Whitley Gym	14,025		Arena	460	0.47	6.59	2	\$ 25.00	
Field House	79,875		Arena	460	0.47	37.54	3	\$ 35.00	
Memorial Statidum		9570	Sports Stadium	462	0.15	1,435.50	4	\$ 45.00	
Softball Field		700	Sports Stadium	462	0.15	105.00	4	\$ 45.00	
Children's Learning Center	10,550		Daycare	565	11.12	117.32	4	\$ 45.00	
Old Childrends Museum	21,475		Warehouse	150	0.19	4.08	1	\$ 15.00	

\$ 1,110.00 \$ 13,320.00
\$ 4,862.50 \$ 58,350.00