CITY OF MILWAUKIE

ORDINANCE NO. 1905

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, IMPOSING A FRANCHISE FEE ON THE WATER, SEWER AND STORM DRAINAGE PUBLIC UTILITIES OPERATING WITHIN THE CITY, CLASSIFYING THE FRANCHISE FEE NOT SUBJECT TO THE PROPERTY TAX LIMITATIONS OF ARTICLE XI, SECTION 11(B) OF THE OREGON CONSTITUTION.

WHEREAS, the City of Milwaukie has acquired and does maintain a system of public streets, alleys, sidewalks, bicycle lanes and right-of-way for public use; and

WHEREAS, resources for the maintenance of this street system are limited; and

WHEREAS, on a regular basis, the street system is impacted by the construction and maintenance of the city's water, storm drainage and sewer systems; and

WHEREAS, the cost of restoring the street system after it has been disturbed by water, sewer and storm drainage improvements is a cost properly attributed to the water, sewer and storm drainage utilities; and

WHEREAS, other public utilities within the city have been required to pay a franchise fee to the City for the right to operate within the city's streets;

WHEREAS, the City Council finds that the Water, Sewer and Storm Drainage funds have resources available to pay for the impact of the water, sewer and storm drainage systems on the city's street system; now therefore:

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1: Title 3 of the Milwaukie Municipal Code is amended to read as follows:

CHAPTER 3.10

PUBLIC UTILITY FRANCHISE FEE

3.10.10 Franchise Fee imposed.

For the right to operate in, upon and under the street system of the City, a franchise fee is hereby imposed upon and shall be collected annually from the Water, Sewer and Storm Drainage funds of the City. The fee shall be in an amount equal to eight percent (8%) of the net revenue of the water, sewer and storm drainage charges collected within the City after deductions have been made for all outstanding debt service obligations.

3.10.20 Payment.

Payment of the franchise fee set forth in Section 3.10.010 shall be made by annually transferring the appropriate sum of money for the franchise fee from the Water, Sewer and Storm Drainage funds to the Street Fund.

Section 3. The City Council determines that the fee imposed by this ordinance is not a tax subject to the property tax limitations of Article XI, Section 11(b) of the Oregon Constitution.

Section 4. Because of the immediate need to begin collecting this fee, as approved in the Fiscal Year 2002/2003 budget, an emergency is declared and this ordinance shall take effect upon its passage.

Read for the first time on July 2 2002 and moved to a second reading by 4 - 0 vote of the City Council.

Read for the second time and adopted by the City Council on July 2 2002.

Signed by the Mayor on July 2, 2002.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Ramis, Crew, Corrigan & Bachrach, LLP

City Attorney