

TITLE 9
CHAPTER 6

STREET MAINTENANCE FEE

SECTION:

- 9-6-1: Creation and Purpose
- 9-6-2: Definitions
- 9-6-3: Administrative Officers Designated
- 9-6-4: Street Maintenance Fees Allocated to the Street Maintenance Fee Fund
- 9-6-5: Determination of Street Maintenance Fee
- 9-6-6: Determination of Amount, Billing and Collection of Fee
- 9-6-7: Waiver of Fees in Case of Vacancy
- 9-6-8: Administrative Provisions and Appeals
- 9-6-9: Administrative Policies
- 9-6-10: Penalty
- 9-6-11: Severability

9-6-1: CREATION AND PURPOSE: A street maintenance fee is created and imposed for the purpose of maintenance of City Streets. The street maintenance fee shall be paid by the responsible party for each occupied unit of real property. The purposes of the street maintenance fee are to charge for the service the City provides in maintaining public streets and to ensure that maintenance occurs in a timely fashion, thereby reducing increased costs that result when maintenance is deferred.

9-6-2: DEFINITIONS: As used in this chapter, the following shall mean:

PUBLIC WORKS DIRECTOR	The Public Works Director or the Public Works Director's designee
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.
FINANCE DIRECTOR	The Finance & Information Services Director or designee
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.
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.
STREET FUNCTIONAL CLASSIFICATION	Street classifications as described in the Florence Transportation System Plan. <ul style="list-style-type: none">a. Arterials are intended to serve high volumes of traffic, particularly through traffic, at relatively high speeds. They also serve truck movements and typically emphasize traffic movement over local land access.b. Collectors serve traffic from the local street system and distribute it to the arterial street system. These roadways provide a balance between traffic movement and land access, and are designed to facilitate traffic circulation throughout the City.c. Local Streets provide land access and carry locally generated traffic at relatively low speeds to the collector street system. Local streets provide connectivity through neighborhoods.
PARKING SPACE REQUIREMENT	The minimum off-street vehicle parking requirement as stated in the Minimum and Maximum Off-Street Vehicle and Bicycle Parking Requirements in the Florence Community Development Code.

PAVEMENT MAINTENANCE PROGRAM (PMP)	An annual program of corrective and preventative maintenance on City of Florence streets funded by the street maintenance fee (SMF). The program helps to extend the life of the pavement structure by various means such as, pavement overlaying, slurry sealing, or complete removal and replacement of asphalt.
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.
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.
STREET MAINTENANCE	Any action to maintain City streets, including repair, renewal, resurfacing, replacement and reconstruction. Street maintenance does not include the construction of new streets or street lighting. Street maintenance shall include resurfacing of existing streets, repair or replacement of curb and gutter where they exist, repair or replacement of the entire existing street structural section, repair or replacement of existing street shoulders, pavement markers, striping and other street markings, repair or replacement of existing channelization devices, adjustment of existing utilities to match finish grades, and any other related work within the existing streets.

9-6-3: 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 this 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 street maintenance programs for the maintenance of City streets and, subject to City Budget Committee review and City Council approval, allocation and expenditure of budget resources for street 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.

9-6-4: STREET MAINTENANCE FEES ALLOCATED TO THE STREET MAINTENANCE FEE FUND:

- A. All street maintenance fees received shall be deposited to the street maintenance fee fund or other fund dedicated to the operation and maintenance of the City street system. The street maintenance fee fund shall be used for street maintenance. Other revenue sources may also be used for street maintenance. Amounts in the street maintenance fee fund may be invested by the Finance Director in

accordance with State law. Earnings from such investments shall be dedicated to the street maintenance fee fund.

- B. The street maintenance fee 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 street maintenance program. Engineering design, pavement evaluation, construction management, and other related costs, including project advertisements for bid, in the implementation of the street maintenance projects shall also be considered as being used for street maintenance.

9-6-5: DETERMINATION OF STREET MAINTENANCE FEE:

- A. The street maintenance fee shall be established based on the following:
 - 1. The City's five-year maintenance and reconstruction plan for corrective and preventative maintenance of the City's street infrastructure.
 - 2. For residential property, the fee shall be charged on a per unit basis.
 - 3. For nonresidential property, the fee shall be charges on a per unit basis.
- B. The street maintenance fee rates shall be established by Council resolution.
- C. The street maintenance fee will be adjusted, as necessary, according to the Engineering News Record 20-City Construction Cost index ("Index") average based on a two-year rolling average of the indices.
- D. The program shall be reviewed annually as part of the City's budget process.
- E. Following each review of the program, the Finance Director shall review the revenue received from the new rates after a full year of collection to determine if the annual revenues meet the annual funding level set from the updated five-year street maintenance plan. The Finance Director shall report the findings of that review to City Council and may make recommendations on any potential fee increases or decreases based on that review. Any unspent funds will be placed in a reserve fund.

9-6-6: DETERMINATION OF AMOUNT, BILLING AND COLLECTION OF FEE:

- A. For the purpose of establishing the fee, the minimum required number of parking spaces or the number of fueling positions for each occupied unit of nonresidential property shall be determined by the Public Works Director. For uses not explicitly listed in the Florence Municipal Code as to required parking, the Public Works Director shall assign the use to the similar category with the most similar impact on the transportation system, considering relevant information such as:
 - 1. The size of the site and the building;
 - 2. The number of employees;
 - 3. Other developed sites with similar use.
- B. The Public Works Director shall establish the amount of street maintenance fee payable for each unit of nonresidential property and shall inform the Finance Director of the amount. The amount payable shall be re-determined if there is a change in use or development. All redeterminations based on a change in use or development shall be prospective only. The Finance Director shall charge the per-unit street maintenance fee to the responsible party for each occupied unit of residential property.
- C. The street maintenance fee shall be billed to and collected from the responsible party for each occupied unit. Billings shall be included as part of the water and sewer bill for occupied units 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.

- D. Collections from utility customers will be applied first to interest and penalties, then proportionately among the various charges for utility services and street maintenance.
- E. An account is delinquent if the street maintenance fee is not paid by the due date shown on the utility bill. The City may follow the procedures for collection of delinquent accounts, including termination of water and/or sanitary sewer service.

9-6-7: WAIVER OF FEES IN CASE OF VACANCY:

- A. When any developed property within the City becomes vacant as described in subsection (F) of this section, upon written application and approval by the Finance Director, the street maintenance fee shall thereafter not be billed and shall not be a charge against the property until such time as the property is no longer vacant.
- 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 street maintenance fee shall be waived for the duration of the vacancy as described in subsection (F) of this section.
- 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 street maintenance 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 street maintenance 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 street maintenance 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), and (F) of this section shall be final.

9-6-8: ADMINISTRATIVE PROVISIONS AND APPEALS:

- A. The Public Works Director shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this chapter and to determine the appropriate charges thereunder. The responsible party for an occupied unit may request reconsideration of the Public Works Director's determination of the amount of the fee by submission of a written application to the Public Works Director. The application shall be submitted in sufficient detail to enable the Public Works Director to render a decision.
- B. Within 30 days of the submission of a complete application requesting reconsideration of the amount of the street maintenance fee to be charged to an occupied unit, the Public Works Director shall render a decision on the application. The decision shall be written and shall include findings of fact and conclusions for the particular aspects of the decision, based upon applicable criteria, which may include a land use decision that modifies the minimum required vehicle parking for an occupied unit. A copy of the decision shall be mailed to the person submitting the request. The Public Works Director

shall maintain a collection of such decisions. Decisions of the Public Works Director, which affect the amount of fee to be charged to a property, shall be forwarded to the Finance Director. Except as provided under subsection (D) of this section, the decision of the Public Works Director is final.

- C. For the purpose of reviewing the fee, the Public Works Director may determine that the land use category is proper and that the fee charged is appropriate. However, if the decision of the Public Works Director results in a change in the category of land use, the Public Works Director shall, for the purpose of establishing the fee, assign a new use category, determine the appropriate fee for the category, and notify the Finance Director so that the appropriate change may be made in the applicable fee to be charged in the future. No back charges or refunds are required. The decision of the Public Works Director, under this subsection (C) only, may be appealed.
- D. Any customer has the right to appeal the determination of the Public Works Director to the City Manager. The notice of appeal must be filed in writing within ten days of the date notice of change of category of land use and determination of fee is sent and must be filed with the office of the City Manager in writing stating:
 - 1. The name and address of the appellant.
 - 2. The address of the affected premises.
 - 3. The nature of the determination being appealed.
 - 4. The reason the determination is incorrect.
 - 5. What the correct determination of the appeal should be.

An applicant who fails to file such a statement within the time permitted waives his or her objections and the appeal shall be dismissed. If notice of appeal is properly filed, except in an emergency, service shall not be discontinued or disconnected until there is a final determination of the appeal.

The City Manager shall proceed to hear and determine the appeal on the basis of the written statement and such additional evidence as the City Manager deems appropriate. The appellant shall be allowed at least ten (10) days' written notice of the hearing on appeal. At the hearing the appellant may present testimony and oral argument personally or by counsel, and additional evidence. The rules of evidence as used by courts of law do not apply. The decision of the City Manager shall be in writing and shall contain findings of fact that substantiate his/her decision. The decision shall be mailed to the appellant within 10 days of the completion of the appeal hearing. The decision of the City Manager shall be final.

9-6-9: ADMINISTRATIVE POLICIES:

- A. The following policies shall apply to the operation and scope of this chapter:
 - 1. Street maintenance 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 street maintenance fee unless public off-street parking designed to accommodate the use of such areas is provided.
 - 3. 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 is authorized and directed to review the operation of this chapter and, where appropriate, recommend changes thereto in the 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.

- C. If an occupied unit of nonresidential property is used for more than one use with different minimum parking requirements, the street maintenance fee shall be based on the required parking for the total of the various uses.
- D. The determination or assignment of a use category and minimum number of parking spaces under the provisions of this chapter are strictly for the purpose of establishing a fee and are not statutory land use decisions.

9-6-10: 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 street maintenance fee constitutes a separate violation.

9-6-11: 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 parties, then as to those certain properties, an exception or exceptions from the imposition of the street maintenance 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.

Created by Ord. 2, Series 2012 - Effective July 4, 2012