

**City of Sherwood, Oregon
Ordinance 2002-1139**

**AN ORDINANCE AMENDING THE SHERWOOD MUNICIPAL CODE BY CREATING
A NEW CHAPTER 5.28 "PUBLIC UTILITY FEES."**

WHEREAS, publicly-owned and/or operated utilities located within the City's Public Rights of Way impact those Public Rights of Way in a manner similar to that of other privately-owned public utilities or telecommunications carriers which pay the City a franchise fee for the privilege of locating therein; and

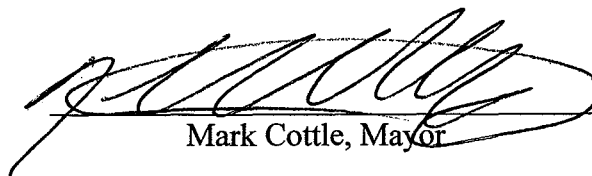
WHEREAS, the City does not currently charge or collect a fee from publicly-operated utilities associated with the privilege of locating within the City's Public Rights of Way; and,

WHEREAS, the City Council recognizes that the City's authority over Public Rights of Way within its boundaries is a function of its Charter as recognized by the terms of ORS 221.410 and that the City has the ability to charge all such users of its Public Rights of Way for the privilege of such use;

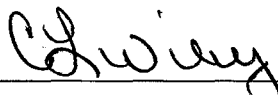
NOW THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1. A new Chapter 5.28 of the Sherwood Municipal Code is hereby enacted and to read as set out in Exhibit "A" attached hereto.

Duly passed by the City Council this 10th day of December 2002.


Mark Cottle, Mayor

ATTEST:



C.L. Wiley, City Recorder

	AYE	NAY
Heironimus	<input checked="" type="checkbox"/>	_____
Durrell	<input checked="" type="checkbox"/>	_____
Claus	<u>absent</u>	_____
Mays	<input checked="" type="checkbox"/>	_____
Fox	<input checked="" type="checkbox"/>	_____
Cottle	<input checked="" type="checkbox"/>	_____
7 th seat vacant		_____

EXHIBIT A
To
ORDINANCE 2002-1139

PUBLIC UTILITY FEE

- 5.28.010 Fee Established**
- 5.28.020 Definitions**
- 5.28.030 Fees and Payment**
- 5.28.040 Report of Gross Revenues; Investigation by Finance Director.**

5.28.010 Fee Established.

There is hereby established a Public Utility Fee upon all Public Utilities operating within the City's Public Rights of Way for the privilege of operating therein.

5.28.020 Definitions.

A. "City" means the city of Sherwood and the area within the territorial limits thereof.

B. "Finance Director" means the City's Finance Director or his or her designate.

C. "Gross Revenues" means revenues earned within the City (after adjustment for the write-off of uncollectable accounts) from the sale of their services and for use of operating facilities of the Public Utility engaged in such enterprise within the City. The term does not include proceeds from the sale of bonds or other evidence of indebtedness, interest earnings, connection fees or other similar activities.

D. "Public Rights of Way" means City owned and maintained streets, roads, highways, bridges, alleys, sidewalks, trails, paths, easements and other public ways within the City, including the subsurface under and air space over these areas not including land devoted to park or other recreational use.

E. "Public Utility" means municipally-owned or operated service supplier(s) (including special districts as defined in ORS Chapter 198) of water, sanitary sewage and storm/surface water disposal and treatment operating within the City.

5.28.030 Fees and Payment.

A. Basis for fee calculation. Those entities or City departments or bureaus operating a Public Utility within a Public Right of Way shall pay to the City a fee for the privilege thereof. The fee shall be measured as a percentage of the Gross Revenues

received by the Public Utility for services provided within the City, said percentage to be established by the City Council in a separate resolution.

B. Payment of fee. Fees payable by City departments shall be paid monthly at the end of each calendar month of operations by fund transfers from the water, sanitary sewer, and storm/surface water funds. Other non-City operated Public Utilities shall calculate and pay the fee quarterly to the City Finance Director consistent with the following schedule:

1. not later than April 15th for the period extending from January 1st through March 31st inclusive;
2. not later than July 15th for the period extending from April 1st through June 30th inclusive;
3. not later than October 15th for the period extending from July 1st through September 30th inclusive; and
4. not later than January 15th for the period extending from October 1st through December 31st inclusive (for the preceding calendar year).

5.28.040 Report of Gross Revenues; Investigation by Finance Director.

Concurrent with the fee's payment, all Public Utilities covered by the terms of this Chapter shall file with the City Finance Director a report (in a form approved by the City) setting out the Public Utility's revenues according to their accounting subdivisions with such deductions claimed by the Public Utility for the period upon which the fee is computed.

Within 90 days from the date such report is filed (or such additional time up to 180 days as the Finance Director deems necessary), the Finance Director may investigate/audit the report (or cause same) to determine the accuracy of the amount reported. For purposes of such investigation/audit, the Public Utility shall make available those records which the Finance Director deems necessary for verification of the reports and fees owed and paid.