

Title 3

REVENUE AND FINANCE

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Chapter 3.04

TRANSIENT ROOM TAX

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3.04.010 Title.

This chapter shall be known as the transient room tax chapter of the city of Boardman. (Ord. 6-2003 § 1)

3.04.020 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

“City” means the city council of the city of Boardman, Oregon or its duly appointed committee or designee.

“Hotel” means any structure or any portion of any structure which is occupied or intended or designed for transient occupancy for dwelling, lodging or sleeping purposes for thirty (30) days or less or spaces on the ground used or intended to be used for parking a vehicle occupied or designed and intended for occupation for lodging or sleeping purposes. Such occupancy is for less than a thirty (30) day period. Premises usually and ordinarily occupied or intended to be occupied for periods of time more than thirty (30) days shall not be considered a hotel in the event any part of such premises is incidentally occupied for a period of less than thirty (30) days.

“Occupancy” means the use or possession, or the right to use or possession for lodging or sleeping purposes in a hotel or portion thereof.

“Operator” means the person who is proprietor of a hotel in any capacity. Where the operator performs his functions through a management agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall be considered to be compliance by both.

“Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, limited liability company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

“Rent” means the consideration charged in money, goods, labor, credits, property or other consideration, whether or not received by the operator, for the occupancy of a space in a hotel valued in money. Rent does not include the value of food, or other amenities if the occupancy of space is available without such amenities and if, in the normal course of business, the operator renders a receipt itemizing the value of such amenities separately from the value of the occupancy of the space in the hotel.

“Tax administrator” means the city manager or his designee.

“Tax” means either the tax payable by the transient, or the aggregate amount of taxes due from any operator during the period for which he is required to report his collections.

“Transient” means any individual(s) who exercises occupancy or is entitled to occupancy in a hotel for a period for thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the thirty (30) day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. (Ord. 6-2003 § 2)

3.04.030 Tax imposed.

A. For the privilege of occupancy in any hotel, each transient shall pay a tax as set by the city in an amount not to exceed five percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or the city. The transient shall pay the tax to the operator at the time the rent is paid. The operator shall enter the tax on his records when rent is collected. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the city.

B. The city shall set or change the rate of tax by resolution in January to be effective the following fiscal year beginning on July 1. The city shall give written notice to every registered hotel operator of the time and date of the meeting at which such resolution shall be considered. (Ord. 6-2003 § 3)

3.04.040 Collection of tax by operator--Rules for collection.

A. Every operator renting rooms in this city, the occupancy of which is not exempted under the terms of this chapter, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owed by the operator to the city.

B. In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made.

C. The tax administrator shall enforce provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the enforcement.

D. In computing the tax on each day's rental, fractions of a penny shall be disregarded. (Ord. 6-2003 § 4)

3.04.050 Operator's duties.

Each operator shall collect the tax imposed by this chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records. (Ord. 6-2003 § 5)

3.04.060 Exemptions.

No tax imposed under this chapter shall be imposed upon:

A. Any occupant for more than thirty (30) successive calendar days; (a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient).

B. Any person who rents a private home, vacation cabin or like facility from an owner who rents the facility incidentally to his own use thereof.

C. Any occupant whose rent is paid for a hospital room or to a medical clinic, convalescent home or home for aged people.

D. An employee of the federal government, with a tax-exempt form, while on federal business. (Ord. 6-2003 § 6)

3.04.070 Registration of operator--Form and contents--Execution--Certificate of authority.

Every person engaging or about to engage in business as an operator of a hotel in this city shall register with the tax administrator on a form provided. Operators engaged in business at the time this chapter is adopted must register not later than thirty (30) calendar days after passage of this chapter. Operators starting business after this chapter is adopted must register within fifteen (15) calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his or her place or places of business and such other information to facilitate the collection of the tax as the tax administrator may require. The registration shall be signed by the operator. The tax administrator shall, within ten (10) days after

registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for such additional place of business for each registrant. Certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

Said certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;

D. This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the transient room tax chapter of the city of Boardman by registration with the tax administrator for the purpose of collecting from transients the room tax imposed by said city and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws including, but not limited to, those requiring a permit from any board, council, department or office of the city of Boardman. This certificate does not constitute a permit. (Ord. 6-2003 § 7)

3.04.080 Due date--Returns and payments.

A. The tax imposed by this chapter shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are payable to the tax administrator on a calendar quarterly basis. Such taxes are due on the last day of the month following the end of each calendar quarter.

B. Prior to the end of the month following the end of each calendar quarter of collection a return for that quarter's tax shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe by every operator liable for payment of tax.

C. Returns shall show the amount of tax collected or otherwise due for the related period. The tax administrator may require returns to show the total rentals upon which tax was collected or otherwise due, and an explanation in detail of any discrepancy between reported rentals and amounts tendered, the amount of rents exempt, if any, and a description of units rented for more than thirty (30) days.

D. The person required to file the return shall deliver the return, together with the remittance of the amount of tax due, to the tax administrator at his office either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining penalties.

E. For reasonable cause, the tax administrator may extend, but not to exceed, one month, the time for making any return or payment of tax. No further extension shall be granted, except by action of the tax administrator as provided herein. Any operator to whom an extension is granted shall pay interest at the rate of one percent per month on the amount of tax due without pro-ratio for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this chapter.

F. The tax administrator, if deemed necessary in order to insure payment or facilitate collection by the city of the amount of taxes in any individual case, based on reasonable cause, may require returns and payment of the amount of taxes for other than quarterly periods. (Ord. 6-2003 § 8)

3.04.090 Delinquent penalties and interest.

A. Failure to File Return. Any operator who fails to file a return within the time permitted in this chapter, shall pay a penalty of ten (10) percent of the amount of the tax due in addition to the amount of the tax.

B. Failure to Pay Tax. Any operator who fails to pay the tax imposed and collected pursuant to this chapter within the time required by this chapter shall pay a penalty of fifteen (15) percent of the amount of tax due, plus the amount of the tax. The penalty for failure to pay tax imposed by this paragraph is in addition to the penalty for failure to file return in paragraph A of this section, if applicable.

C. Fraud. If the tax administrator determines that the failure to file a return or the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five (25) percent of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (A) and (B) of this section.

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof without pro-ratio for portions of a month, on the amount of the tax due until paid.

E. Penalties Merged With Tax. Every penalty imposed and such interest imposed by this section shall be merged with and become a part of the tax herein to be paid.

F. Petition for Waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated provided, however, the operator may petition the tax administrator for waiver of a penalty or any portion thereof, and the city may, if a good and sufficient reason is shown, waive a penalty or any portion thereof. (Ord. 6-2003 § 9)

3.04.100 Deficiency determination--Fraud, evasion, operator delay.

A. Deficiency Determination. If the tax administrator determines that the returns are incorrect, he or she may compute and determine the amount required to be paid upon the basis of the facts contained in a return or returns or upon the basis of any information within his or her possession or that may come into his or her possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable thirty (30) days after service of notice as herein provided. Penalties shall be applied as set forth in Section 3.04.090.

1. In making a determination the tax administrator may offset overpayment, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayment. Interest on underpayment shall be computed in the manner set forth in Section 3.04.090.

2. The tax administrator shall give to the operator or occupant a written notice of his determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the operator at his address as it appears in the records of the city recorder. In case of service by mail, or any notice required by this chapter, service is complete at the time of deposit in the United States Post Office.

3. Except in the case of fraud, intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three weeks after the last day of the month following the close of the period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires earlier.

4. Any determination shall become due and payable thirty (30) days after the tax administrator has given notice thereof, provided, however, the operator may petition the city for re-determination within said thirty (30) days.

B. Fraud, Refusal to Collect, Evasion. If any operator makes a fraudulent return or otherwise willfully attempts to evade this chapter, the tax administrator shall proceed

in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the tax administrator has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit said tax, he or she shall also determine any interest, and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the tax administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file a return.

C. Any determination shall become due and payable within thirty (30) days after the tax administrator has given notice thereof, provided, however, the operator may the city for re-determination within said thirty (30) days.

D. Operator Delay. If, with good reason, the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the city will be jeopardized by delay, or if any determination will be jeopardized by delay, he or she shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be due and payable thirty (30) days after service of notice thereof, provided, however, the operator may petition the city for re-determination within said thirty (30) days. (Ord. 6-2003 § 10)

3.04.110 Redetermination.

A. Any person against whom a determination is made under Section 3.04.100 or any person directly interested may petition for a re-determination within the time required in Section 3.04.100. If a petition for re-determination is not filed within the time required in Section 3.04.100, the determination becomes final at the expiration of the allowable time.

B. If a petition for re-determination is filed within the allowable period, the tax administrator shall reconsider the determination, and if the person has so requested in his or her petition, shall grant the person an oral hearing and shall give him or her ten (10) days' notice of the time and place of hearing. The tax administrator may continue the hearing from time to time as may be necessary.

C. The tax administrator may decrease or increase the amount of the determination as a result of the hearing and if any increase is determined such increase shall be calculated and included in the tax administrator's decision.

D. The decision of the tax administrator upon a petition for re-determination becomes final thirty (30) days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the city within the thirty (30) days after service of such notice. (Ord. 6-2003 § 11)

3.04.120 Security for collection of tax.

A. The tax administrator, whenever deemed necessary, with reasonable cause, to insure compliance with this chapter, may require any operator subject thereto to deposit with him or her security in the form of cash, bond, or other security as the tax administrator may determine. The amount of security shall be fixed by the tax administrator, but shall not be greater than five thousand dollars (\$5,000.00). The amount of the security may be increased or decreased by the tax administrator subject to the limitation herein provided.

B. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the tax administrator may bring an action in the courts of this state, or any other state, or of the United States in the name of the city to collect the amount delinquent together with penalties and interest. (Ord. 6-2003 § 12)

3.04.130 Lien.

A. The tax imposed by this chapter together with interest and penalties herein provided and the filing fees paid to the clerk of Morrow County, Oregon, and the advertising costs which may be incurred when same becomes past due as set forth in this chapter shall be and, until paid, remain a lien from the date of its recording with the clerk of Morrow County, Oregon and superior to all subsequent recorded liens on all real property upon which the hotel of an operator is located within Boardman and may be foreclosed on and sold as may be necessary to discharge said lien, if the lien has been recorded. Notice of lien may be issued by the tax administrator, or his deputy whenever the operator is in default and the payment of said tax, interest and penalty is past due and shall be recorded, and a copy sent to the operator. A lien imposed by this section shall be foreclosed in the manner provided by law.

B. Any lien for taxes as shown on the records of the proper county official shall, upon the payment of all taxes, penalties, and interest, be released by the tax administrator when the full amount determined to be due has been paid to the city and the operator or person making such payment shall receive a receipt therefore stating that the full amount

of taxes, penalties, and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied. (Ord. 6-2003 § 13)

3.04.140 Refunds.

A. Operator's Refunds. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the tax administrator under this chapter, it shall be refunded, provided a verified claim in writing therefore, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the claim is approved by the tax administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to the operator, his or her administrator's, executors or assignees.

B. Transient Refunds. Whenever the tax required by this chapter has been collected by the operator, and deposited by the operator with the tax administrator and it is later determined that the tax was erroneously or illegally collected or received by the tax administrator, it shall be refunded by the tax administrator to the transient, provided a verified claim in writing therefore, stating the specific reason on which the claim is founded, is filed with the tax administrator within three years from the date of payment. (Ord. 6-2003 § 14)

3.04.150 Administration.

A. The tax administrator shall deposit all money collected pursuant to this chapter to the credit of the general fund.

B. Collection Fee. Every operator liable for collection and remittance of the tax imposed by this chapter may withhold ten (10) percent of the net tax herein collected to cover the operator's expenses in collection and remittance of said tax.

C. Records Required from Operator, Forms. Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of three years and six months after they come into being.

D. Examination of Records -- Investigations. The tax administrator or any person authorized in writing by him or her may examine during normal business hours, the books, papers and accounting records relating to room sales of any operators after notification to the operator liable for the tax and to investigate the business of the operator in

order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

E. Confidential Character of Information Obtained -- Disclosure Unlawful. It shall be unlawful for the tax administrator or any person having an administrative or clerical duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a transient occupancy registration certificate, or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided that nothing in this subsection shall be construed to prevent:

1. The disclosure to, or the examination of records and equipment by another city of Boardman official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter or collecting taxes imposed hereunder.

2. The disclosure after the filing of a written request to that effect, to the taxpayer herself or himself, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties; further provided, however, that the city attorney approves each such disclosure and that the tax administrator may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby.

3. The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.

4. The disclosure of general statistics regarding taxes collected or business done in the city. (Ord. 6-2003 § 15)

3.04.160 Appeals to city council.

A. Any dispute in the amount of taxes due, refunds, or other provisions of this chapter, may be filed with the tax administrator. If not satisfied by the tax administrator the operator may appeal the decision to the city.

B. The city, acting as the review authority for disputes, may:

1. Hear and determine appeals of decisions of the personnel of the city, prescribe the forms, rules and regulations, relating to appeals, and take such other actions consis-

tent with the appeal function. In reviewing a decision or dispute the council may take evidence and conduct an investigation. The council shall give notice of determinations and shall file a certified copy of each determination with the tax administrator. A determination of the council becomes final after twenty (20) days and become due, subject to interest and penalties, and enforceable by the city in the same manner as an order or decision of the tax administrator as otherwise described herein.

2. Approve, modify or disapprove all forms, rules and regulations prescribed by the tax administrator if the forms, rules and regulations are challenged in the administration and enforcement of this chapter.

3. Hear and determine protests made to a form, rule or regulation approved or prescribed by the tax administrator.

4. Prescribe rules for extensions and, for good cause, grant extensions of time in excess of one month for filing a return or paying the tax.

5. Make investigations regarding imposition and administration of the tax and report findings publicly, assist in directing enforcement actions, and determine the necessity to amend or alter this chapter.

6. Any other duties not specifically enumerated herein which are consistent with this chapter. (Ord. 6-2003 § 16)

3.04.170 Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not affect the validity of the remaining portions of this chapter or any part thereof. The city council hereby declare that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or paragraphs be declared unconstitutional (or otherwise invalid). (Ord. 6-2003 § 17)

3.04.180 Violations.

It is unlawful for any operator or other person to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter. Violation of this section is punishable by a fine not to exceed one hundred dollars (\$100.00) per day for each continuing day of violation, in addition to the penalties assessed in Section 3.04.090 above. (Ord. 6-2003 § 18)

3.04.190 Additional remedies.

A. In addition to the penalties provided in this chapter, the city may sue in a court of competent jurisdiction to obtain a judgment for a tax, interest and penalties due under this chapter and enforce collection of the judgment by execution.

B. The city may seek an injunction to prohibit a person from engaging in conduct prohibited by this chapter.

C. In an action authorized by this section, if the city prevails, it shall recover reasonable attorney fees to be set by the court in addition to its costs and disbursements. These fees are recoverable at all levels of trial and appeal. (Ord. 6-2003 § 19)

Chapter 3.08

SYSTEM DEVELOPMENT CHARGES

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- 3.08.050 Methodology.
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- 3.08.080 Improvement plan.
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- 3.08.010 Purpose.

The purpose of the system development charge is to impose a portion of the cost of capital improvements for water, wastewater drainage, streets, flood control, and parks upon those developments that create the need for or increase the demands on capital improvements. (Ord. 199-1999 § 1)

3.08.020 Scope.

The system development charge imposed by this chapter is separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development. (Ord. 199-1999 § 2)

3.08.030 Definitions.

As used in this chapter:

“Capital improvements” means facilities or assets used for:

1. Water supply, treatment and distribution;
2. Wastewater collection, transmission, treatment and disposal;
3. Drainage and flood control;
4. Transportation; or
5. Parks and recreation.

“Development” means conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, dividing land into two or more parcels (including partitions and subdivisions), and creating or terminating a right of access.

“Improvement fee” means a fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to Section 3.08.040 of this chapter.

“Land area” means the area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

“Owner” means the owner or owners of record title or the purchaser or purchasers under a recorded sales agreement, and other persons having an interest of record in the described real property.

“Parcel of land” means a lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.

“Permittee” means the person to whom a building permit, development permit, a permit or plan approval to connect to the sewer or water system, or right-of-way access permit is issued.

“Qualified public improvements” means a capital improvement that is:

1. Required as a condition of development approval;
2. Identified in the plan adopted pursuant to Section 3.08.080 of this chapter; and either
3. Not located on or contiguous to a parcel of land that is the subject of the development approval; or
4. Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.
5. For purposes of this definition, “contiguous” means in a public way which abuts the parcel.

“Reimbursement fee” means a fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to Section 3.08.040 of this chapter.

“System development charge” means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. “System development charge” includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections with water and sewer facilities. “System development charge” does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision, expedited land use division or limited land use decision. (Ord. 199-1999 § 3)

3.08.040 System development charge established.

A. System development charges shall be established and may be revised by resolution of the council. The resolution shall set the amount of the charge, the type of permit to which the charge applies, and, if the charge applies to a geographic area smaller than the entire city, the geographic area subject to the charge.

B. Unless otherwise exempted by the provisions of this chapter or other local or state law, a system development charge is imposed upon all development within the city,

upon the act of making a connection to the city water or sewer system within the city, and upon all development outside the boundary of the city that connects to or otherwise used the sewer facilities, storm sewers, or water facilities of the city. (Ord. 199-1999 § 4)

3.08.050 Methodology.

A. The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, rate-making principals employed to finance publicly owned capital improvements, and other relevant factors identified by the council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.

B. The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.

C. The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be contained in a resolution adopted by the council. (Ord. 199-1999 § 5)

3.08.060 Authorized expenditures.

A. Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

B.1. Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of future debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees must be related to demands created by current or projected development.

2. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to Section 3.08.080 of this chapter.

C. Notwithstanding subsections (A) and (B) of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this chapter, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures. (Ord. 199-1999 § 6)

3.08.070 Expenditure restrictions.

A. System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

B. System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements. (Ord. 199-1999 § 7)

3.08.080 Improvement plan.

The council shall adopt a plan that:

A. Lists the capital improvements that may be funded with improvement fee revenues;

B. Lists the estimated cost and time of construction of each improvement; and

C. Describes the process for modifying the plan.

In adopting this plan, the council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section. (Ord. 199-1999 § 8)

3.08.090 Collection of charge.

A. The system development charge is payable upon issuance of:

1. A building permit;

2. A development permit;

3. A development permit for development not requiring the issuance of a building permit;

4. A permit or approval to connect to the water system;

5. A permit or approval to connect to the sewer system; or

6. A right-of-way access permit.

B. If no building, development, or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased.

C. If development is commenced or connection is made to the water or sewer systems without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

D. The city manager or designee shall collect the applicable system development charge from the permittee when a permit that allows building or development of a parcel is issued or when a connection to the water or sewer system of the city is made.

E. The city manager or designee shall not issue such permit or allow such connection until the charge has been paid in full, unless an exemption is granted pursuant to Section 3.08.100 of this chapter. (Ord. 199-1999 § 9)

3.08.100 Exemptions.

A. Structures and uses established and existing on or before the effective date of the ordinance codified in this chapter are exempt from a system development charge, except water and sewer charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this chapter upon the receipt of a permit to connect to the water or sewer system.

B. Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the system development charge.

C. An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the public improvement facility are exempt from all portions of the system development charge.

D. A project financed by city revenues is exempt from all portions of the system development charge. (Ord. 199-1999 § 10)

3.08.110 Credits.

A. When development occurs that is subject to a system development charge, the system development charge for the existing use, if applicable, shall be calculated and if it is less than the system development charge for the use that will result from the development, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge. If the change in the use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required. No refund or credit shall be given unless provided for by another subsection of this section.

B. A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the city of the public improvement. The credit shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee and shall only be for the improvement fee charged for the type of improvement being constructed.

C. If a qualified public improvement is located in whole or in part on or contiguous to the property that is the subject of development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request for credit shall be filed in writing no later than sixty (60) days after acceptance of the improvement by the city.

D. When the construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.

E. Notwithstanding subsection D and this subsection, when establishing a methodology for a system development charge, the city may provide for a credit against the improvement fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements, or a credit based upon any other rationale the council finds reasonable.

F. Credits shall not be transferable from one development to another.

G. Credits shall not be transferable from type of system development charge to another.

H. Credits shall be used within ten (10) years from the date the credit is given.
(Ord. 199-1999 § 11)

3.08.120 Notice.

A. The city shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge. Written notice shall be mailed to persons on the list at least forty-five (45) days prior to the first hearing to adopt or amend a system development charge. The methodology supporting the adoption or amendment shall be available at least thirty (30) days prior to the first hearing to adopt or amend a system development charge. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the city.

B. The city may periodically delete names from the list, but at least thirty (30) days prior to removing a name from the list, the city must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list. (Ord. 199-1999 § 12)

3.08.130 Segregation and use of revenue.

A. All funds derived from a particular type of system development charge are to be segregated by accounting practices from all other funds of the city. That portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in Section 3.08.060 of this chapter.

B. The appropriate city official shall provide the city council with an annual accounting, based on the city's fiscal year, for system development charges showing the total amount of system development charge revenues collected for each type of facility and the projects funded from each account. (Ord. 199-1999 § 13)

3.08.140 Appeal procedure.

A. A person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or the expenditure to the city council by filing a written request with the city manager or designee describing with particularity the decision of the city manager or designee and the expenditure from which the person appeals. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

B. Appeals of any other decision required or permitted to be made by the city manager or designee under this chapter must be filed within ten (10) days of the date of the decision.

C. After providing notice to the appellant, the council shall determine whether the city manager or designee's decision or the expenditure is in accordance with this chapter and the provisions of ORS 223.297 to 223.314 and may affirm, modify, or overrule the decisions. If the council determines that there has been an improper expenditure of system development charge revenues, the council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent. The decision of the council shall be reviewed only as provided in ORS 34.010 to 34.100, and not otherwise.

D. A legal action challenging the methodology adopted by the council pursuant to Section 3.08.050 shall not be filed later than sixty (60) days after the adoption. A per-

son shall contest the methodology used for calculating a system development charge only as provided in ORS 34.010 to ORS 34.100, and not otherwise. (Ord. 199-1999 § 14)

3.08.150 Prohibited connection.

No person may connect to the water or sewer systems of the city unless the appropriate system development charge has been paid or the lien or installment payment method has been applied for and approved. (Ord. 199-1999 § 15)

3.08.160 Penalty.

Violation of Section 3.08.150 of this chapter is punishable by a fine in an amount double the original fee. (Ord. 199-1999 § 16)

3.08.170 Construction.

The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of this chapter. (Ord. 199-1999 § 17)

3.08.180 Classification.

The city council determines that any fee, rates or charges imposed by this chapter are not a tax subject to the property tax limitations of Article XI, Section 11(b) of the Oregon Constitution. (Ord. 199-1999 § 19)

Chapter 3.12

SPECIAL ASSESSMENTS FOR PUBLIC IMPROVEMENTS

Sections:

- 3.12.010 Definitions.
- 3.12.020 Property description.
- 3.12.030 Combining improvements.
- 3.12.040 Engineer's report.
- 3.12.050 Resolution--Notice.
- 3.12.060 Assessment--Notice.
- 3.12.070 Other methods of financing.
- 3.12.080 Manner of work.
- 3.12.090 Equitable or legal relief.
- 3.12.100 Liens.

- 3.12.110 Notice of assessment--Bancroft bonding.
- 3.12.120 Property ownership determination.
- 3.12.130 Deficit assessment.
- 3.12.140 Rebates.
- 3.12.150 Bancroft bonding.
- 3.12.160 Abandonment of proceedings.
- 3.12.170 Errors in procedure.
- 3.12.180 Foreclosure.
- 3.12.190 Reassessment.
- 3.12.200 Time limitation.

3.12.010 Definitions.

As used in this chapter:

“Local improvement or public improvement” means:

1. The grading, graveling, paving or other surfacing of any street; or opening, laying out, widening, extending, altering, changing the grade of, or constructing any street;
2. The construction or reconstruction of sidewalks;
3. The installation of ornamental street lights;
4. The installation of underground wiring or related equipment;
5. The reconstruction or repair of any street improvement mentioned in this subsection;
6. The construction, reconstruction or repair of any sanitary or storm sewer or water main;
7. The acquisition, establishment, construction or reconstruction of any off-street motor vehicle parking facility;
8. The construction, reconstruction or repair of any flood control dike or dam;
9. The construction, reconstruction, installation and equipping of a park, playground or neighborhood recreation facility;
10. Any other local improvement for which an assessment may be made on the property specially benefited.

“Lot” means a lot, block, or parcel of land.

“Owner” means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the office of the county assessor.

“Recorder” means the auditor, recorder, clerk or other person or officer of the city serving as clerk of the city or performing the clerical work of the city. (Prior code § 2-2.1)

3.12.020 Property description.

A. Real property may be described by giving the subdivision according to the United States survey when coincident with the boundaries thereof; or by lots, blocks and addition names; or by giving the boundaries thereof by metes and bounds; or by reference to the book and page of any public record of the county where the description may be found; or by designation of tax lot number referring to a record kept by the assessor of descriptions of real properties of the county, which record shall constitute a public record; or in such other manner as to cause the description to be made certain. Initial letters, abbreviations, figures, fractions and exponents, to designate the township, range, section, or part of a section; or the number of any lot or block or part thereof; or any distance, course, bearing or direction, may be employed in any such description of real property.

B. If the owner of any land is unknown, such land may be assessed to “unknown owner,” or “unknown owners.” If the property is correctly described, no assessment shall be invalidated by a mistake in the name of the owner of the real property assessed or by the omission of the name of the owner or the entry of a name other than that of the true owner. When the name of the true owner, or the owner of record, of any parcel of real property is given, the assessment shall not be held invalid on account of any error or irregularity in the description if the description would be sufficient in a deed of conveyance from the owner, or is such that, in a suit to enforce a contract to convey, employing such description a court of equity would hold it to be good and sufficient.

C. Any description of real property which conforms substantially to the requirements of this section shall be a sufficient description in all proceedings of assessment for a special improvement district, foreclosure and sale of delinquent assessments, and in any other proceeding related to or connected with levying, collecting and enforcing special assessments for special benefits to such property. (Prior code § 2-2.1A)

3.12.030 Combining improvements.

Several proposed improvements may be combined in one proceeding and may be described in one notice of publication. (Prior code § 2-2.2)

3.12.040 Engineer’s report.

Whenever the city council considers it necessary to construct a public improvement, as defined above, for which it is anticipated that special assessments will be levied, it shall, by motion, direct the city engineer:

A. To make a survey and written report of the project and file it with the city clerk within thirty (30) days from the date of the resolution, unless the council grants an extension of time. The report shall contain:

1. A plat or map showing the general nature, location and extent of the proposed improvement and the lands to be assessed to pay any part of the costs thereof;

2. A description of the type of the proposed improvement and an estimate of the length of its useful life;

3. A description of the location and land use of each lot, tract, or parcel of land or portion thereof, which will be specially benefited by the improvement, together with the name of the owner thereof;

4. A description of the boundaries of the district benefited by and to be assessed for the improvement;

5. The percentage of the land within the district which is vacant and unused for urban purposes;

6. The assessed value of each lot, tract, or parcel of land within the district, according to the last county assessment roll, and the amount of the delinquent taxes and assessments, and the amount of taxes and assessments levied but not delinquent, for each lot, tract, and parcel of land within the district;

7. An estimate of the probable cost of the project, including legal, administrative and engineering costs attributable thereto, and a recommendation as to a fair apportionment of the whole or any portion of the cost of the project to the property specially benefited.

B. The council shall then consider the report; and if it desires to undertake the project, it shall by resolution declare its intention to make the improvement. (Prior code § 2-2.3)

3.12.050 Resolution--Notice.

If the council declares its intention to make the improvement, it shall in its resolution:

A. Direct the city clerk to cause to be published once each week for two successive weeks in a newspaper of general circulation in the city, a notice stating:

1. That the council has declared its intention to proceed with the improvement and that the report of the city engineer is on file in the city clerk's office, subject to examination;

2. The estimated total cost of the improvement, less the amount thereof to be borne by the city, if any;

3. A description of the district to be specially benefited by the improvement;

4. That remonstrances may be filed against the proposed improvement at the office of the city clerk not later than five p.m. on the twentieth day after the date of first publication of the notice;

5. That the project will be discontinued if a remonstrance of the owners of two-thirds of the benefited property to be specifically affected is filed;

6. The date when the engineer's report and any objections thereto will be considered by the council and all interested persons.

B. Direct the city clerk to send a notice by mail to his or her last known address to each owner of the various lots, tracts, or parcels of property within the improvement district, which notice shall state:

1. The estimated total cost of the improvement, less the amount thereof to be borne by the city, if any;

2. A brief description of the property which the person to whom the notice is sent owns;

3. The time within which remonstrances may be filed;

4. The date when the report of the engineer and any objections thereto will be heard by the council and all interested persons. (Prior code § 2-2.4)

3.12.060 Assessment--Notice.

If, after hearing the engineer's report and any objections thereto, the council shall find such report to be reasonable and just, it may adopt the same or amend, and as amended, adopt the report by motion. The council may require a supplementary or further report from the city engineer. If after the hearing the council determines that the local improvements shall be made, when the report has been adopted in original form or as amended, the council shall then determine whether or not to proceed with the local improvement. If the council determines that the local improvement shall be made, when the estimated cost thereof is ascertained on the basis of the contract award or city departmental cost, or after the work is done and the cost thereof has been actually determined, the council shall determine whether the property benefited shall bear all or a portion of the cost. The city engineer shall prepare the proposed assessment to the respective lots within

the assessment district and file it in the city clerk's office. Notice of such proposed assessments shall be mailed or personally delivered to the owner of each lot proposed to be assessed, which notice shall state the amounts of assessment proposed on that property and shall fix a date by which time objections shall be filed with the clerk. Any such objection shall state the grounds thereof. The council shall consider such objections and may adopt, correct, modify or revise the proposed assessments and shall determine the amount of assessment to charge against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvement, and shall by ordinance spread the assessments. (Prior code § 2-2.5)

3.12.070 Other methods of financing.

When in the opinion of the council, on account of topographical or physical conditions, unusual or excessive public travel, or other character of the work involved, or when the council otherwise believes the situation warrants it, it may contribute what it deems a fair proportion of the cost of such improvement from general funds of the city, and the amount to be assessed to the property benefited shall be proportionately reduced. Nothing herein contained shall preclude the council from using other available means of financing improvements, including federal or state grants-in-aid, sewer service or other types of service charges, revenue bonds, general obligation bonds or other legal means of finance. In the event that any of such other means of finance are used, the council may, in its discretion, levy special assessments hereunder to cover any part of the costs of improvement not covered by such means of finance. (Prior code § 2-2.6)

3.12.080 Manner of work.

After the council by resolution declares its intention to proceed with improvement, it may direct the engineer to prepare plans and specifications, and authorize the engineer to call for bids to let out the work on contract, which bids shall not be open prior to the hearing of the engineer's report by the council and interested persons. The council may let the contract for the doing of the work, if after the hearing, the council determines to continue with the project. The council may provide that the work shall be done by city forces. In the event that the work is done under contract bids shall be received on all such work, the estimated cost of which is more than four thousand dollars (\$4,000.00). The contract shall be let to the lowest responsible bidder, provided that the council shall have the right to reject all bids when they are deemed unreasonable or unsatisfactory, or if the bids are opened at the hearing, when the council shall determine not to proceed with the improvement. The council shall provide for taking security by bond for the faithful per-

formance of any contract under its authority, and the provisions thereof, in case of default, shall be enforced by action in the name of the city. (Prior code § 2-2.7)

3.12.090 Equitable or legal relief.

Subject to curative provisions of Section 3.12.170 and rights of the city to reassess as provided in Section 3.12.190, proceedings for writs of review and other appropriate equitable or legal relief may be filed as provided by state law. (Prior code § 2-2.8)

3.12.100 Liens.

The ordinance of assessment, herein provided for, shall direct the city clerk to enter in the docket of city liens a statement of the respective amounts assessed upon each particular lot, tract or parcel of land within the improvement district, together with the name and address of the record owner thereof. The docket of city liens is a public writing and the original and certified copies of any matter authorized to be entered therein are entitled to the force and effect of public writing, and from the date of entry therein, of any assessment upon any lot, tract or parcel of land or part thereof, the sum so entered shall be deemed to be a tax levied and a lien thereon, which lien shall have priority over all other liens or encumbrances thereon whatsoever insofar as the laws of the state of Oregon allow. (Prior code § 2-2.9)

3.12.110 Notice of assessment--Bancroft bonding.

The sum of money assessed for any improvement as herein provided shall not be collected until by order of the council not less than ten (10) days' notice is given by the city clerk by publication in a newspaper of general circulation in the city of the collection of the assessment. Publication of the notice in one issue of the newspaper shall be sufficient, and such notice shall contain substantially the matter required to be entered in the docket of city liens concerning such assessment, and shall state that such assessment must be paid within twenty (20) days from the date of first publication of the notice, or bonded within twenty (20) days from the date of first publication of the notice as provided in the Bancroft Bonding Act. At the time of publication of the notice, the city clerk shall cause to be mailed to the owner of each lot or tract of land assessed, at his or her last known address, a notice setting forth in brief terms the substance of the notice of collection of assessment, and including specifically the particular lot or tract of land owned by the person to whom notice is sent, and the amount of the assessment. Assessments which are not paid or bonded within the time stated shall bear interest at seven percent per annum beginning with the last day on which assessment is required to be paid. The

owner to whom the notice is mailed as required by this section shall be the “owner” as defined in Section 3.12.010 of this chapter. (Prior code § 2-2.10)

3.12.120 Property ownership determination.

For the purpose of ascertaining who is the owner of any lot, tract, or parcel of land or part thereof assessed for the improvements herein described the city clerk may take the certificate of any abstractor, abstract company or person or persons engaged in the searching or examination of titles, who may be designated by the council for such purpose, which certificate shall state who is the record owner or contract purchaser of record of each such lot, parcel, or tract of land or part thereof subject to such assessment on the date the council declared its intention to make the improvement, as shown by the records in the office of the county clerk of Morrow County, Oregon. (Prior code § 2-2.11)

3.12.130 Deficit assessment.

If the assessment is made before the total costs of the improvement are known, and it is found that the amount assessed is insufficient to defray the expenses of the project, the council may by resolution declare such deficit and prepare a proposed deficit assessment. The city clerk shall give notice thereof and of the hearing of objections thereto as herein prescribed with reference to the original report; and the council, upon such hearing, shall make a just and equitable deficit assessment by ordinance. Such deficit assessment shall be consolidated with the assessment in the lien docket. The deficit assessment shall be collected in the same manner as the original assessment. (Prior code § 2-2.12)

3.12.140 Rebates.

If, upon the completion of a project, it is found that any sum theretofore assessed therefor upon any property is more than sufficient to pay the cost of the improvement, the council must ascertain and declare the same by ordinance, and when so declared, it must be entered in the docket of city liens as a credit upon the appropriate assessment. If any such assessment has been paid, the person who paid the same, or his or her legal representative, shall be entitled to the payment of any portion of the rebate credit which exceeds the assessment, by a warrant on the city. (Prior code § 2-2.13)

3.12.150 Bancroft bonding.

A. The provisions of ORS chapter 223, known as the Bancroft Bonding Act, are adopted by reference.

B. The provisions of ORS chapter 223 relating to rebonding procedures are adopted by reference. (Prior code § 2-2.14)

3.12.160 Abandonment of proceedings.

The council shall have full power and authority to abandon and rescind proceedings for improvements hereunder at any time prior to the final consummation of such proceedings, and if liens have been assessed upon any property under this procedure, they shall be cancelled, and any payments made thereon shall be refunded to the payor, his or her assigns or legal representative. (Prior code § 2-2.15)

3.12.170 Errors in procedure.

No improvement assessment shall be invalid by reason of a failure to give, in any report, in the proposed assessment, in the ordinance making the assessment, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot, tract or parcel of land or part thereof, or by mistake in the name of any such person or the entry of a name other than the name of such owner, or by reason of any error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps hereinabove specified, unless it appear that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the council shall have power and authority to remedy and correct all such matters by suitable action and proceedings. (Prior code § 2-2.16)

3.12.180 Foreclosure.

The city may proceed to foreclose as delinquent any lien for assessments made under this chapter or made under previous ordinances and charter provisions of the city in the manner and at the time provided in ORS Chapter 223. In supplementation of this law, the city clerk is designated as the person required to prepare the delinquent list as provided in ORS Chapter 223, the city treasurer is designated as the officer responsible for collection of the unpaid liens or assessments named in the list, and the mayor and city clerk are designated as the persons who shall execute to the purchaser a deed of conveyance, as described in ORS Chapter 223. (Prior code § 2-2.17)

3.12.190 Reassessment.

Whenever an assessment, deficit assessment, or reassessment for a local improvement has been set aside, annulled, declared or rendered void, or its enforcement restrained by a court of this state or a federal court having jurisdiction, or when the council

doubts the validity of the assessment, deficit assessment, or reassessment, or any part of it, the council may make a new assessment or reassessment in the manner provided by ORS Chapter 223. (Prior code § 2-2.18)

3.12.200 Time limitation.

In the event any improvement project is not defeated by remonstrance, and the council determines to proceed with the work after the hearing, a contract for the doing of the work shall be let, or the work shall be commenced within one year from the date of the hearing. In the event the contract is not let or the work commenced within one year from the date of the hearing, the proceedings undertaken therefor shall be of no force and effect, and any liens docketed or assessments collected shall be cancelled and rebated. Provided, however, that where the council determines, in its best judgment, that it would be advisable to postpone commencement of a portion or portions of the work for a time past the six month period herein provided in order to achieve a more orderly development of the project and to permit construction of the remaining portion or portions when the same can be fully utilized in conjunction with the initial portion of the project, it may so declare in its resolution of intention to construct the improvement. The council shall review the project periodically thereafter and may continue completion of a portion of the project from time to time until in its judgment the city and the persons to be benefited thereby will be best served. Such action shall not be taken by the council unless it shall find that the remaining part of the work which is to be commenced within the six month period, when complete, will be self-sufficient under existing circumstances. Assessments for the portion or portions of the work to be done at a later date may be held in abeyance by the council until the council determines to proceed with the remaining portion or portions of the work. A record of the estimated proposed assessments so held in abeyance shall be recorded in the deed records of Morrow County so as to provide notice to all interested persons that the property to be benefited by completion of the project is subject to further assessment. (Prior code § 2-2.20)

Chapter 3.16

CAPITAL RESERVE ACCOUNT FUNDS

Sections:

3.16.010 Definitions.

3.16.020 Street and park improvements.

3.16.030 Water system.

3.16.040 Wastewater system.

3.16.050 Transfers.

3.16.010 Definitions.

For purposes of this chapter the following are the identified capital reserve account funds:

- A. For streets and park improvements;
- B. For improvement and development of water supply system;
- C. For wastewater systems. (Ord. 195-1999 § 1)

3.16.020 Street and park improvements.

A. The council authorizes the creation of a fund to accumulate moneys for the purpose of: (1) Acquiring street right of ways for the use by the public; (2) Street improvements; (3) Major improvements to existing park facilities; and (4) Development of future parks for the use by the public.

B. The reserve fund will receive moneys transferred from the street fund and will expend moneys for: (1) Acquiring street right of ways for the use by the public, (2) Street improvements; (3) Major improvements to existing park facilities; and (4) Development of future parks for the use by the public.

C. Expenditures are limited to purchases in excess of five thousand dollars (\$5,000.00). (Ord. 195-1999 § 2)

3.16.030 Water system.

The council authorizes the creation of a fund to accumulate moneys for the expansion and upgrading of the existing water system of the city. The reserve fund will receive moneys transferred from the general fund and the water fund and is authorized to expend moneys for the expansion and upgrading of the water system, limited to purchases in excess of five thousand dollars (\$5,000.00). (Ord. 195-1999 § 3)

3.16.040 Wastewater system.

The council authorizes the creation of a fund to accumulate moneys for the expansion and upgrading of the existing wastewater systems of the city. The reserve fund will receive moneys transferred from the general fund and the sewer fund, hereinafter referred to as wastewater fund, and is authorized to expend moneys for the expansion and upgrad-

ing of the wastewater systems, limited to purchases in excess of five thousand dollars (\$5,000.00). (Ord. 195-1999 § 4)

3.16.050 Transfers.

The council will authorize transfers by resolution. (Ord. 195-1999 § 5)