Exhibit B

MUNICIPAL CODE AMENDMENTS

Chapter 2.16 – PLANNING COMMISSION

2.16.040 - Quorum.

~~Four~~ Three members of the commission shall constitute a quorum for the conduct of business by the commission. A vote of the majority of the quorum shall be necessary for action by the commission on any matter before it.

2.16.060 Conflict of interest

A member of the planning commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial real estate or financial interest: The member or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member, any business in which the member is then serving or has served within the previous two years, or any business in which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken.

2.16.100 Appeal to city council

~~An action or ruling~~ A decision of the commission authorized by this chapter under section 2.16.070(A) may be appealed to the city council within fifteen days after the commission has rendered its decision by filing written notice of appeal with the city manager. At the time the notice of appeal is filed, the appellant shall pay an appeal fee in the amount provided in a schedule of rates established by resolution of the city council. If no appeal is taken within the fifteen-day period, the decision of the commission shall be final. If an appeal is filed, the city council shall receive a report and recommendation from the commission and shall hold a public hearing on the appeal. Notice of the time, place and purpose of the public hearing shall be given by:

A. Mailing a copy of the notice to the applicant and all other individuals (who appeared in person or wrote letters to the commission), at the addresses such individuals provided to the commission at the commission's hearing; and

B. Posting a copy of the notice of public hearing shall occur not less than ten days prior to the date of the hearing.

Chapter 2.34 – CITY COUNCIL RULES OF ORDER

2.34.030 Meeting times

In accordance with Article 7, Section 7.01 of the King City Charter, the city council shall hold a regular meeting at least once each month. This meeting will typically take place on the third Wednesday of each month ~~with the meeting time for the regular meetings to be set by resolution~~ with the date, time and place to be decided by the Mayor and coordinated by the City Manager. Notice of the meeting's date, time, and place shall be published via public notice no less than 24 hours in advance. All other council meetings will be either work sessions or special meetings and typically scheduled on the first Wednesday of each month. Work sessions or special meetings will be held at ~~seven p.m.~~ Ten (10:00) a.m. unless noticed otherwise.

Chapter 8.04 – NUISANCES

8.04.130 Noise.

A. Prohibited Noise. No person, firm, corporation or association shall cause or permit a noise to exceed the following intensity when measured at the nearest noise receiving structure (i.e., living, sleeping or eating area of a residence, office or similar areas), and sound deadening buffers shall be installed by the contractor or homeowner, if necessary, to meet the required permitted noise levels.

Maximum Permitted Sound Level Decibels

Hours:	7 a.m. to 7 p.m.	7 p.m. to 7 a.m.
	~~55~~ 75 dBA	~~45~~ 60 dBA

For purposes of enforcing this provision, sound measurements shall be made with a sound level meter meeting the requirements of a Type I or Type II meter as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale and contain both fast and slow meter response capability.

B. Exemptions. The following noise sources or devices are exempt from the seven a.m. to seven p.m. decibel level provisions (only) of subsection A of this section:

1. Noise-making devices which are maintained and utilized solely to serve as warning devices; and
2. Noise caused by or directly related to the construction or repair of structures for which a building permit is required; and
3. Equipment or devices used for yard preparation or maintenance including but not limited to, lawn mowers, hedge clippers, trimmers and other related equipment; and

C. Exemptions. The following noise sources or devices are exempt from the seven p.m. to seven a.m. decibel level provisions (only) of subsection A of this section:

1. Noise-making devices which are maintained and utilized solely to serve as warning devices; and

2. Noise caused by or directly related to emergency repairs.

D. Exemptions. The following noise sources or devices are exempt form the decibel level provisions (only) of subsection A of this section between the hours of six a.m. to seven p.m., during daylight savings time only:

1. Equipment and devices used for maintenance and groundskeeping requirements on the city golf course.

2. Notwithstanding the exemptions granted in this section, no noise created by the activities subject to an exemption shall exceed eighty-five dBA for more than five minutes in any calendar day.

Chapter 8.08 – OPEN BURNING

8.08.010 Definition

"Open burning" means any burning conducted in such a manner that combustion air is not effectively controlled. ~~and that combustion products are not vented through a stack or chimney, including, but not limited to, burning conducted in open outdoor fires, common burn barrels and backyard incinerators.~~ These include Recreational Fires as defined by TVFR (Oregon Fire Code 307.4.2) and Bonfires as defined by TVFR (Oregon Fire Code section 307.4.1).

8.08.020 Permit required

A. No one, within the boundaries of the city, without the express written permission of the city and the fire chief of the Tualatin Rural Fire Protection District or his authorized officer, shall cause or permit to be initiated or maintained on his own property, or cause to be initiated or maintained on the property of another, any open burning as is defined in Section 8.08.010 of this chapter.

B. Exempt from permitting: The use of small fire pits, fire tables, outdoor fireplaces, barbecue pits, campfires, and similar activities provided that they are burning clean dry firewood, propane, natural gas, charcoal or similar fuels **AND** the fire is confined by a noncombustible barrier (such as a metal fire ring, masonry or stone enclosure, a hole in bare earth, etc.).

Chapter 8.24 – OVERNIGHT CAMPING

8.24.010 – Definitions

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Camp" or camping" means to set up, use, maintain or remain in or at a campsite.

"Campsite" means any place where one or more persons have established temporary living accommodations by use of camp facilities and/or camp paraphernalia.

"Camp facilities" include, but are not limited to, tents, huts, temporary shelters, lean- tos, shacks, or any other structures, vehicles or parts thereof.

"Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or non-city designated cooking facilities and similar equipment.

"City property" means all real property owned by the city, other than public rights-of-way and utility easements, as those are defined herein, and all property held in a proprietary capacity by the city, which are not subject to right-of-way franchising as provided in this chapter; and

"Public rights-of-way" include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas. This definition applies only to the extent of the city's right, title, interest or authority to grant a franchise to occupy and use such areas for infrastructure and utilities. Public rights-of-way shall also include utility easements, as defined below.

"Utility easement" means any easement granted to or owned by the city and acquired, established, dedicated or devoted for public utility purposes.

"Store" means to put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.

"Tualatin Greenway Trail" means a hard-surfaced pathway that runs from 99W west to Roy Rogers Road.

"Parks, Recreation, and Natural spaces" means areas identified as natural or conservation areas or designated as Parks for Recreational purposes.

8.24.020 – Overnight Camping Location and Hours

A. Overnight Camping is prohibited in King City except in the time, place and manner designated by this ordinance.

B. Overnight Camping is permitted along the east side of City Hall, east of the fence on City Property adjacent to Highway 99W.

C. Overnight Camping is permitted between the hours of 9pm and 7am.

D. Unless otherwise specifically authorized by the City Code or by declaration of the Mayor and/or City Manager in emergency circumstances, it is an infraction for any person to camp in or upon any other public property including:

1. Within an area zoned for institutional and public use
2. Within an area zoned as a Floodplain Overlay
3. Within any residential zone, within 50 feet of any residential zone and within 50 feet of a residential structure regardless of zoning;
4. In City Parks, Recreation, and Natural Spaces;
5. On or along the Tualatin Greenway Trail;
6. Within 500 LF of a School Zone;
7. In a manner reducing the clear, continuous sidewalk width to less than four feet; and
8. Between the hours of 7:00 a.m. to 9:00 p.m.

8.24.030 – Storage of Personal Property

Except as expressly authorized by the King City Municipal Code, it shall be unlawful for any individual to store personal property, including camp facilities and camp paraphernalia, on city property or in the public rights-of-way during the hours of 7:00 a.m. to 9:00 p.m.

8.24.040 – Violation - Penalty

Any person camping in violation of this section shall, upon conviction thereof, be subject to a civil fine of not more than $100 for each offense. The fine amount should reasonably relate to the damage the infraction caused to public use, enjoyment, or property.

Chapter 3.02 SYSTEMS DEVELOPMENT CHARGES

3.02.010 Purpose.

The purpose of the system development charge is to impose an equitable share of the public costs of capital improvements for water, sewers and wastewater drainage, streets, flood control, and parks upon those developments and redevelopments that create the need for or increase the demands on the transportation, parks, recreation center, water, sewer systems.

This chapter is intended to provide authorization for system development charges for capital improvements pursuant to ORS 223.297—223.314 for the purpose of creating a source of funds to pay for the installation, construction, and extension of capital improvements. These charges shall be collected at the time of the development of properties that increase the use of capital improvements and generate a need for those facilities. Nothing in this chapter is intended to limit the city's authority as may otherwise be provided by state law.

(Ord. O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.020 Scope.

The system development charges as imposed by this chapter are separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, exaction, dedication, or fee otherwise provided by law or imposed as a condition of development.

(Ord. O-93-14 § 1 (part), 1993)

3.02.030 Definitions.

A. "Capital improvements" means facilities or assets used for:

1. Water supply, treatment, and distribution;
2. Sewage and wastewater collection, transmission, treatment, and disposal;
3. Drainage and flood control;
4. Transportation, including, but not limited to, streets, sidewalks, bicycle lanes, multi-use paths, street lights, traffic signs and signals, pavement markings, street trees, swales, public transportation, vehicle parking, and bridges; or
5. Parks and recreation, including, but not limited to, community parks, public open space and trail systems, recreational buildings, courts, fields, and other like facilities.

B. "Capital Improvement" does not include the costs of the operation or routine maintenance of capital improvements.

C. "Development" means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities, any building permit resulting in increased usage of capital improvements, and any new connection or increased size connection for a capital improvement. Development includes the redevelopment of property. Development also includes improved open areas such as plazas and walkways but does not include natural geologic forms or unimproved lands.

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D. "Improvement fee" means a fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to Section 3.02.040 of this chapter.

"Reimbursement fee" means a fee for costs associated with capital improvements already constructed, or under construction when the fee is established, for which the city council determines that capacity exists. Pursuant to Section 3.02.040 of this chapter for which, the city determines that capacity exists.

E. "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.

F. "Owner" means the owner(s) of record title or the purchaser(s) under a recorded sales agreement, and other persons having an interest of record in the described real property.

G. "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 includes the yards and other open spaces required under the zoning, subdivision, or other development chapters.

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

I. "Qualified public improvement" means a capital improvement that is:

1. Required as a condition of development approval;
2. Identified in the plan adopted pursuant to Section 3.02.070 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.

J. "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 or issuance of a development permit, building permit or 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 governmental unit for its average cost of inspecting and installing connections with water and sewer facilities. "System development charge" does not include any 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 condition of development approval.

(Ord. O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.040 System development charge imposed—Method for establishment created.

A. A. System development charges shall be established and may be revised by resolution of the city council. The resolution shall set the amount of the charge through a methodology developed pursuant to Section 3.02.050 herein, 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. Changes in the system development charges shall also be adopted by resolution, excepting those changes resulting solely from inflationary cost impacts. Inflationary cost impacts shall be measured and calculated each July 1st by the City Manager and charged accordingly. [Insert appropriate cost index for calculating the increase of SDCs, such as the Pacific Northwest Construction cost changes in the Engineering News Record Construction Cost Index (ENR Index), as represented by the City of Seattle, Washington].

Deleted: "Development" means conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, or creating or terminating a right of access. ¶
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B. Unless otherwise exempted by the provisions of this chapter, or by other local or state law, a system development charge is hereby imposed upon all development within the city, upon issuance of permit as stated in Section 3.02.090 herein or upon the act of making a connection to the city water or sewer system within the city, whichever occurs first, and upon all development outside the boundary of the city that connects to or otherwise uses the sewer facilities, storm sewers, or water facilities of the city.

(Ord. O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.050 Methodology.

A. The methodology used to establish or modify a reimbursement fee shall promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities and be available for public inspection. The methodology used to establish or modify a reimbursement fee shall, where applicable, be based on:

1. Ratemaking principles employed to finance publicly owned capital improvements;
2. Prior contributions by existing users;
3. Gifts or grants from federal or state government or private persons;
4. The value of unused capacity available to future system users or the cost of the existing facilities; and
5. Other relevant factors identified by the city council.

B. The methodology used to establish or modify an improvement fee shall, where applicable, demonstrate consideration of the estimated cost of projected capital improvements identified in an improvement plan (see Section 3.02.080) that are needed to increase the capacity of the systems to which the fee is related. The methodology shall be calculated to obtain the cost of capital improvements for the projected need for available system capacity for future system users.

C. The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be adopted by resolution pursuant to ORS 223.301.

(Ord. O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.060 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. Improvement fees shall be spent only on capacity increasing capital improvements, including the following:

1. Expenditures relating to repayment of debt for such improvements.
2. 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 improvements funded by improvement fees must be related to demands created by current or projected development.
3. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the systems development charge funding project plan adopted by the city pursuant to Section 3.02.070 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

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B. System development charges shall be established and may be revised by resolution of the city council. The city council may adopt a change in the adopted fees as provided by state law. The resolution shall set the amount of the charge, the type of permit to which the charge applies, the methodology used to set the amount of the charge and, if the charge applies to a geographic area smaller than the entire city, the geographic area subject to the charge. ¶

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developing system development charge methodologies, and providing an annual accounting of system development charge funds.

(Ord. O-93-14 § 1 (part), 1993)

3.02.070 Expenditure restrictions.

A. A. System development charges may not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements or for the expenses of the operation or maintenance of the facilities constructed with system development charge revenues.

B. B. Any capital improvement being funded wholly or in part with system development charge revenues must be included in the plan and list adopted by the city council pursuant to ORS 223.309 and Section 3.02.080 of this chapter.

(Ord O-93-14 § 1 (part), 1993)

3.02.080 Project plan.

A. Prior to the establishment of a system development charge, the city council shall prepare a capital improvement plan, public facilities plan, master plan, or other comparable plan that includes:

1. A list of the capital improvements that the city council intends to fund, in whole or in part, with revenues from improvement fees;
2. The estimated cost and time of construction of each improvement and the percentage of that cost eligible to be funded with improvement fee revenue; and
3. A description of the process for modifying the plan.

B. In adopting a plan under Section 3.02.80(A) of this chapter, the city council may incorporate by reference all or a portion of any capital improvement plan, public facilities plan, master plan, or other comparable plan that contains the information required by this section.

C. The city council may modify such plan and list, as described in Section 3.02.80(A) of this chapter, at any time. If a system development charge will be increased by a proposed modification to the list to include a capacity increasing public improvement, the city council will:

1. At least thirty (30) days prior to the adoption of the proposed modification, provide written notice to persons who have requested notice pursuant to Section 3.02.130 of this chapter;
2. Hold a public hearing if a written request for a hearing is received within seven (7) days of the date of the proposed modification.

D. A change in the amount of a reimbursement fee or an improvement fee is not a modification of the system development charge if the change in amount is based on:

1. A change in the cost of materials, labor, or real property applied to projects or project capacity as set forth on the list adopted pursuant to Section 3.02.80(A) of this chapter;
2. The periodic application of one or more specific cost indexes or other periodic data sources, including the cost index identified in Section 3.02.040 (A) of this chapter. A specific cost index or periodic data source must be:

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a. A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property, or a combination of the three;

b. Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and

c. Incorporated as part of the established methodology or identified and adopted by the city council in a separate resolution, or if no other index is identified in the established methodology, then the index stated in Section 3.02.040 (A) of this chapter.

(Ord O-93-14 § 1 (part), 1993)

3.02.090 Collection of charge.

A. The systems 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 to connect to the water system;

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

6. A right-of-way access permit.

B. The resolution which sets the amount of the charge shall designate the permit or permits to which the charge applies.

C. 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 based on changes in the use of the property unrelated to seasonal or ordinary fluctuations in usage.

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

E. The city manager or the 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.

F. The city manager or the designee shall not issue such permit or allow connection until the charge has been paid in full, unless provision for installment payments has been made pursuant to Section 3.02.100 of this chapter, or unless an exemption is granted pursuant to Section 3.02.110 of this chapter.

(Ord O-93-14 § 1 (part), 1993)

3.02.100 Installment payment.

A. When a system development charge is due and payable, the permittee may apply for payment in twenty semiannual installments, secured by a lien on the property upon which the development is to occur or to

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1. Lists the capital improvements that may be funded with improvement fee revenues; and ¶
2. Lists the estimated cost and time of construction of each improvement. ¶
B. In adopting this plan the city 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. The city may modify this project plan at any time through the adoption of an appropriate resolution. There may be a separate plan for each system, or the plan may include improvements from more than one system. ¶

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which the utility connection is to be made, to include interest on the unpaid balance, if that payment option is required to be made available to the permittee by ORS 223.

B. The city manager or designee shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

C. A permittee requesting installment payments shall have the burden of demonstrating the permittee's authority to assent to the imposition of a lien on the property and that the interest of the permittee is adequate to secure payment of the lien.

D. The city manager or designee shall docket the lien in the lien docket. From that time, the city shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the council. The lien shall be enforceable in the manner provided in ORS Chapter 223 and shall be superior to all other liens pursuant to ORS 23.230.

E. Upon written request of City Manager, the Finance Manager is authorized to cancel assessments of system development charges, without further city council action, where a new development approved by a building permit is not constructed and the building permit is cancelled. Any system development charges paid to the city pursuant to the cancelled permit shall be refunded upon request of the applicant. Such refund will be in the amount paid at the time of the payment to the city, unadjusted for inflation.

(Ord O-93-14 § 1 (part), 1993)

3.02.110 Exemptions.

A. Structures and uses established and existing on or before the effective date of the resolution which sets the amount of the system development charge are exempt from the charge, except water and sewer charges, to the extent of the structure or use existing on that date 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 Oregon Uniform Building Code and KCMC Building and Construction Code adopted pursuant to Chapter 15 of this 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 a capital improvement are exempt from all portions of the system development charge.

(Ord O-93-14 § 1 (part), 1993)

3.02.120 Credits.

A. The city will grant to an applicant a credit against any improvement fee assessed when the applicant, or the developer from whom the applicant purchased a lot, constructs, or dedicates a qualified public improvement as part of the development. The initial determination on all credit requests shall be a decision by the City Manager or City Manager designee and the applicant bears the burden of evidence and persuasion in establishing entitlement to a system development charge credit and the amount of credit in accordance with the requirements of this Section.

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Deleted: A. When development occurs that replaces an existing use and 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, however, no refund or credit shall be given unless provided for by another subsection of this section. ¶

B. To obtain a system development charge credit, the applicant must make the request, in writing, prior to the city's issuance of the first building permit for the development in question. In the request, the applicant must state the following:

a. Identify the improvement for which the credit is sought;

b. Explain how the improvement is a qualified public improvement; and

c. Document, with credible evidence, the value of the improvement for which credit is sought.

C. The system development charge credit shall be an amount equal to the fair market value of the improvement. Fair market value shall be determined by the City Manager based on credible evidence of the following:

1. For dedicated lands, value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction;

2. For a qualified public improvement yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a registered professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which the system development charge credit is sought;

3. For a qualified public improvement already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the applicant; or

4. For a qualified public improvement located on, or contiguous to, the site of the development, only the over-capacity portion as described in the definition of qualified public improvement is eligible for a system development charge credit. There is a rebuttable presumption that the over-capacity portion of such a qualified public improvement is limited to the portion constructed larger, or of greater capacity, than the city's minimum standard facility capacity or size needed to serve the particular development.

D. Form of Credit and Limitation on Use. When given, system development charge credits will be for a particular dollar value as a credit against a system development charge assessed on a development. Credits may only be used to defray or pay the system development charge for the particular capital improvement system to which the qualified public improvement related, e.g., credit from a qualified public improvement for sewer may only be used to pay or defray a sewer system development charge.

E. System Development Charge Credit Carry-Forward. Where the amount of a system development charge credit approved under this Section exceeds the amount of a system development charge assessed on a development for a particular capital improvement system, the excess credit may be carried forward pursuant to the following rules:

1. A system development charge credit carry-forward will be issued by the City Manager for a particular dollar value to the developer who earned the system development charge credit and may be used by the developer to satisfy system development charge requirements for any other development applied for by the developer within the city. System development charge credit carry-forwards are not negotiable or transferable to any party other than the one to whom they are issued.

2. The city will accept a system development charge credit carry-forward presented by a developer as full or partial payment for the system development charge due on any of the developer's developments.

Deleted: B. A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the city of the improvement. The credit provided for in this subsection shall be only for the improvement fee charged for the type of improvement being constructed, and credit for qualified public improvements may be granted only for the cost of that portion of such 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 days after acceptance of the improvement by the city.

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3. System development charge credit carry-forwards are void and of no value if not redeemed with the city for payment of a system development charge of the same type of capital improvement system for which the credit was issued within ten (10) years of the date of issuance.

F. System Development Charge Credit Deadline. For all other system development charge credits not carried forward, the applicant must formally request the system development charge credit to the City Manager no later than one hundred eighty (180) days after the later of the following two conditions occurs:

1. Acceptance of the applicable improvement by the city; and

2. The applicant paying sufficient system development charges for the development to cover the approved system development charge credit.

(Ord O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.130 Notice.

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 ninety (90) days prior to the first hearing to adopt or amend a system development charge, and the methodology supporting the adoption or amendment shall be available at least sixty (60) days prior to the first hearing to adopt or amend. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the city. The city may periodically delete names from the list, but at least thirty days prior to removing a name from the list 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 O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.140 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 by 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 this chapter.

B. The city manager shall provide an annual accounting, to be completed by January 1 of each year, of system development charges showing the total amount of system development charge revenues collected for each type of charge and the projects funded from each account for the previous fiscal year. The annual accounting shall include a list of the amount spent on each project funded, in whole or in part, with system development charge revenues.

(Ord O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.145 Refunds.

A. Refunds shall be given by the City Manager upon finding that there was a clerical error in the calculation of a system development charge.

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Deleted: C. When establishing a methodology for a system development charge, the city may provide for a credit against the improvements 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. ¶
D. When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project. Except as otherwise specifically provided by resolution of the city council, credit shall not be transferable from one development to another. ¶
E. Credits shall not be transferable from one type of system development charge to another. ¶
F. Credits shall be used within ten years from the date the credit is given, or as otherwise specifically provided for in a resolution of the city council. ¶

Commented [RS3]: Does this have to be January 1, 2023? Or can we align it with FY 7/1 to 6/30?

Is there an ORS for this? If so maybe we should add it in for reference.

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B. Refunds shall not be allowed for failure to timely claim a credit under Section 3.02.120 of this chapter, or for failure to seek an alternative system development charge rate calculation at the time of submission of an application for a building permit.

C. The city shall refund to an applicant any system development charge revenues not expended within ten years of receipt from the applicant. Such refund will be in the amount paid at the time, unadjusted for inflation.

3.02.147 Implementing Regulations; Amendments.

The city council delegates to the Building & Development Services the authority to adopt necessary procedures to implement the provisions of this chapter including the appointment of a System Development Charge Program Administrator. All rules developed pursuant to that delegated authority shall be filed with the office of the City Manager and be available for public inspection.

3.02.150 Appeal procedure.

A. A person challenging the propriety of an expenditure of system development charge revenue may appeal the decision or the expenditure to the city council by filing a written appeal petition with the City Manager pursuant to Subsection (D) below. An appeal of an expenditure must be filed within two years of the date of the subject expenditure.

B. A person challenging the propriety of the methodology adopted by the council pursuant to Section 3.02.050 of this chapter may appeal the decision or the expenditure to the council by filing a written appeal petition with the City Manager pursuant to Subsection (D) below. An appeal petition challenging the adopted methodology shall be filed not later than sixty (60) days from the date of the adoption of the methodology.

C. A person challenging the calculation of a system development charge must file a written appeal petition to the calculation of the system development charge with the City Manager within thirty (30) days of assessment of the system development charge.

D. Any person submitting an appeal petition pursuant to Subsections (A) through (C) above, must describe, with particularity, the basis for the appeal and include:

1. The name and address of the appellant;
2. The nature of the expenditure, methodology, or calculation being appealed;
3. The reason the expenditure, methodology, or calculation is allegedly incorrect; and
4. What the correct determination of the appeal should be or how the correct calculation should be derived.

E. If the appeal petition is untimely or fails to meet the requirements of Subsection (D) above, the appeal shall be dismissed by the council without a hearing.

F. If the appeal petition is timely filed and submitted in accordance with Subsection (D) above, the council shall order an investigation and direct that within sixty (60) days of receipt of the appeal petition a written report be filed by the City Manager recommending appropriate action. Within thirty (30) days of receipt of that report, the city council shall conduct a hearing to determine whether the expenditure, methodology, or calculation was proper. The city council shall provide notice and a copy of the report to the appellant at least fourteen (14) days prior to the hearing. The appellant shall have a reasonable opportunity to present appellant's position at the hearing.

G. The appellant shall have the burden of proof. Evidence and argument shall be limited to the grounds specified in the petition. The city council shall issue a written decision stating the basis for its conclusion and directing appropriate action to be taken.

H. The city council shall render its decision within fifteen (15) days after the hearing date, and the decision of the city council will be final. The decision will be in writing, but written findings shall not be made or required unless the city council, in its discretion, elects to make findings for precedential purposes. If the city council determines that there was an improper expenditure of system development charge funds, the city council shall direct that a sum equal to the misspent amount be deposited within one (1) year of the date of the decision to the account of the fund from which it was spent.

I. Any legal action contesting the city council's decision on the appeal must be filed within sixty (60) days of the city council's decision. Review of the city council's decision shall be by writ of review pursuant to ORS 34.010 to 34.100.

(Ord O-04-2 § 1 (part), 2004: Ord. O-93-14 § 1 (part), 1993)

3.02.160 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 O-93-14 § 1 (part), 1993)

3.02.170 Penalty.

Violation of this chapter is a Class A infraction punishable by a fine as required by the city's schedule of fees and penalties as approved through resolution of the city council.

(Ord O-94-01 § 4, 1994: Ord. O-93-14 § 1 (part), 1993)

3.02.171 Severability.

The provisions of this chapter are severable, and it is the intention of the council to confer the whole or any part of the powers herein provided for. If any clause, section, or provision of this chapter is declared unconstitutional or invalid for any reason, the remaining portion of this chapter shall remain in full force and effect and be valid as if such invalid portion had not been incorporated into the chapter. It is hereby declared that the council intends that this chapter would have been adopted had such an unconstitutional provision not been included.

3.02.172 Classification.

The city council hereby 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.

3.02.180 Construction.

The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of this chapter.

(Ord O-93-14 § 1 (part), 1993)

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Deleted: A. A person aggrieved by a decision required or permitted to be made by the city manager under this chapter or 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 describing with particularity the decision of the city manager or the expenditure from which the person appeals. ¶
B. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure. Appeals of any other decision must be filed within thirty days of the date of the decision. ¶
1. The name and address of the appellant; ¶
2. The nature of the expenditure or determination being appealed; ¶
3. The reason the expenditure or determination is incorrect with sufficient specificity to allow the city to respond; and ¶
4. What the correct expenditure or determination of should be or how the correct expenditure or determination should be derived. ¶
The appeal shall be accompanied by a fee set by resolution of the city council. Failure to file the appeal, provide a statement as provided above or file within the applicable time period is jurisdictional. Notice shall be provided to the person who filed an appeal within ten days of the date of the hearing. Notice shall include the date of the hearing, a summary of the hearing process and the right to petition for review the city council's decision pursuant to ORS 34.010 to 34.100. After providing notice the city council shall conduct a hearing on the appeal. A verbatim transcript shall be prepared to assure an accurate record of the proceeding. The issues on appeal will be limited to those presented in the appeal except as otherwise authorized by the city council. The person filing the appeal will be provided an opportunity to testify and present written materials to the city council. The appellant shall carry the burden of proving that the expenditure or determination being appealed is incorrect and how such expenditure or determination should be corrected. ¶
C. The council shall determine whether the city manager's decision or the expenditure is in accordance with this chapter and the provisions of ORS 223.297—223.314 and may affirm, modify or overrule the decisions. If the council determines that there has been an improp ...

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