

## **Title 3**

### **REVENUE AND FINANCE**

#### **Chapters:**

- 3.04 Fiscal Provisions Generally**
  - 3.08 Transient Occupancy Tax**
  - 3.12 Special Assessment Procedures  
for Public Works**
  - 3.16 Establishing a System Development  
Charge and Program**
  - 3.18 Privilege Tax Upon Electric Public Utilities**
  - 3.20 Reimbursement Districts**
- Chapter 3.04**



## Chapter 3.08

### TRANSIENT OCCUPANCY TAX

#### Sections:

- 3.08.010 Definitions.**
- 3.08.020 Tax imposed.**
- 3.08.030 Collection of tax by operator.**
- 3.08.040 Responsibility of hotel operator.**
- 3.08.050 Exemptions.**
- 3.08.060 Registration of operator, form and certification.**
- 3.08.070 Due date—Returns and payments.**
- 3.08.080 Penalties and interest.**
- 3.08.090 Deficiency determinations—Fraud, evasion, operator delay.**
- 3.08.100 Redeterminations.**
- 3.08.110 Security for collection of tax.**
- 3.08.120 Refunds.**
- 3.08.130 Administration.**
- 3.08.140 Appeals from City Recorder determination under this chapter.**
- 3.08.150 Appeal to City Council.**
- 3.08.160 Violation—Penalty.**

#### **3.08.010 Definitions**

As used in this chapter, the following definitions shall apply:

“Accrual accounting” means the operator enters the rent due from a transient on his records when the rent is earned, whether or not it is paid.

“Cash accounting” means the operator does not enter the rent due from a transient on his records until rent is paid.

“City Recorder” means the City Recorder of the City of Wood Village, or duly appointed deputy.

“Council” means the City Council of Wood Village, Oregon.

“Hotel” means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty (30) days or less for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, public or private club or fraternal organization, and also means space in mobile home or trailer parks, or similar structure or space or portions thereof so occupied, provided such occupancy is for less than a thirty (30) day period.

“Occupancy” means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.

“Operator” means the person who is proprietor of the hotel in any capacity. Where the operator performs his functions through a managing 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, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

“Rent” means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in

money, goods, labor, credits, property or other consideration valued in money, without any deduction.

“Rent package plan” means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this chapter shall be the same charge made for rent when not a part of a package plan.

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

“Transient” means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 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, or the tenancy actually extends more than thirty (30) consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. 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. (Ord. 9-1975 § 1)

### **3.08.020 Tax imposed**

For the privilege of occupancy in any hotel in the city, from and after the effective

date of the ordinance codified in this chapter, each transient shall pay a tax in the amount of six 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 by the operator to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis and when earned if the operator keeps his records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and space occupancy in mobile home parks or trailer parks. (Ord. 1-1979 § 1 (part): Ord. 9-1975 § 2)

### **3.08.030 Collection of tax by operator**

A. Every operator renting rooms or space for lodging or sleeping purposes in the 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 owing 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. Adjustments may be made for uncollectables.

C. The City Recorder 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. For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted. (Ord. 9-1975 § 3)

**3.08.040 Responsibility of hotel operator**

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, and any receipt rendered by the operator. No operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this chapter. (Ord. 9-1975 § 4)

**3.08.050 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 occupant whose rent is of a value less than two dollars (\$2.00) per day;

C. Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof. (Ord. 9-1975 § 5)

**3.08.060 Registration of operator, form and certification**

Every person engaging or about to engage an business as an operator of a hotel in the city shall register with the City

Recorder on a form provided by him. Operators engaged in business at the time the ordinance codified in this chapter is adopted must register not later than twenty (20) calendar days after passage of the ordinance codified in this chapter. Operators starting business after the ordinance codified in 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 place or places of business and such other information to facilitate the collection of the tax as the City Recorder may require. The registration shall be signed by the operator. The City Recorder shall, within ten 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 each additional place of business of each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the City Recorder 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 LODGINGS TAX ORDINANCE OF THE CITY OF WOOD VILLAGE, OREGON, by registration with the City Recorder for the purpose of collecting from transients the lodgings tax imposed by said City and remitting said tax to the City Recorder. 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, commission, department or office of the city. This certificate does not constitute a permit.” (Ord. 9-1975 § 6)

**3.08.070 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 due and payable to the City Recorder on a quarterly basis on the fifteenth day of the following month for the preceding three months, and are delinquent on the last day of the month in which they are due. The City Recorder has authority to classify the operators for determination of applicable tax periods, and shall notify each operator of the due and delinquent dates for the operator's returns. The initial return under this chapter may be for less than the three months preceding the due date; thereafter, returns shall be made for the applicable quarterly period.

B. On or before the fifteenth day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the City Recorder. The return shall be filed in such

form as the City Recorder 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 City Recorder may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

D. The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the City Recorder 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 delinquencies.

E. For good cause, the City Recorder may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by the City Council. 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 proration 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 City Recorder, if he deems it necessary in order to insure payment or facilitate collection by the city of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods. (Ord. 9-1975 § 7)

**3.08.080 Penalties and interest**

A. Original Delinquency. Any operator who has not been granted an extension of

time for remittance of tax due and who fails to remit any tax imposed by this chapter prior to delinquency shall pay a penalty of ten percent of the amount of the tax due in addition to the amount of the tax.

B. Continued Delinquency. Any operator who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen (15) percent of the amount of the tax due plus the amount of the tax and the ten percent penalty first imposed.

C. Fraud. If the City Recorder determines that 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 subsections 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 three-quarters of one percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid. (Ord. 9-2004 § 1)

E. Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein required 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 City Council for waiver and refund of the penalty or any

portion thereof and the City Council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof. (Ord. 9-1975 § 8)

**3.08.090 Deficiency determinations—  
Fraud, evasion, operator  
delay**

A. Deficiency Determinations. If the City Recorder determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within his possession or that may come into his 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 immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 3.08.080.

1. In making a determination the City Recorder may offset overpayments, 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 underpayments. The interest on underpayments shall be computed in the manner set forth in Section 3.08.080.

2. The City Recorder 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 on the records of the City Recorder. In case of service by mail or any notice required by this chapter, the service is complete at the time of deposit in the United States Post Office.

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

4. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the City Recorder has given notice thereof; provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

B. Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make within the time provided in this chapter any report and remittance of said tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the city Recorder 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 City Recorder 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 shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the City Recorder 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 City Recorder of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon

receipt of notice and shall become final within ten days after the City Recorder has given notice thereof; provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

C. Operator Delay. If the City Recorder 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 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 immediately due and payable, and the operator shall immediately pay such determination to the City Recorder after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed 3.08.090 within ten days from the date of service of notice by the City Recorder. (Ord. 9-1975 § 9)

### **3.08.100 Redeterminations**

A. Any person against whom a determination is made under Section 3.08.090 or any person directly interested may petition for a redetermination and redemption and refund within the time required in Section 3.08.090. If a petition for redetermination and refund is not filed within the time required in Section 3.08.090, the determination becomes final at the expiration of the allowable time.

B. If a petition for redetermination and refund is filed within the allowable period, the City Recorder shall reconsider the determination, and, if the person has so requested in his petition, shall grant the

person an oral hearing and shall give him ten days' notice of the time and place of the hearing. The City Recorder may continue the hearing from time to time as may be necessary.

C. The City Recorder may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined such increase shall be payable immediately after the hearing.

D. The order or decision of the City Recorder upon a petition for redetermination of redemption and refund becomes final ten days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the City Council within the ten days after service of such notice.

E. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof. (Ord. 9-1975 § 10)

### **3.08.110 Security for collection of tax**

A. The City Recorder, whenever he deems it necessary to insure compliance with this chapter, may require any operator subject thereto to deposit with him such security in the form of cash, bond, or other security as the City Recorder may determine. The amount of the security shall be fixed by the City Recorder but shall not be greater than twice the operator's estimated average quarterly liability for the period for which he files returns, determined in such manner as the City Recorder deems proper, or five thousand dollars (\$5,000.00), whichever amount is the lesser. The amount of the security may be increased or decreased by the City Recorder subject to the limitations 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 City Recorder 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. 9-1975 § 11)

### **3.08.120 Refunds**

A. Refunds by City to Operator. 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 City Recorder under this chapter, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the City Recorder within three years from the date of payment. The claim shall be made on forms provided by the City Recorder. If the claim is approved by the City Recorder, 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 such operator, his administrators, executors or assigns.

B. Refunds by City to Transient. Whenever the tax required by this chapter has been collected by the operator, and deposited by the operator with the City Recorder, and it is later determined that the tax was erroneously or illegally collected or received by the City Recorder, it may be refunded by the City Recorder to the transient, provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the City Recorder within three years from the date of payment.

C. Refunds by Operator to Tenant. Whenever the tax required by this chapter

has been collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding thirty (30) days without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as a transient. The operator shall account for such collection and refund to the City Recorder. If the operator has remitted the tax prior to refund or credit to the tenant, he shall be entitled to a corresponding refund under this section. (Ord. 9-1975 § 12)

### **3.08.130 Administration**

A. Records Required from Operators, Etc. — Form. 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.

B. Examination of Records — Investigations. The City Recorder, or any person authorized in writing by him, may examine during normal business hours the books, papers and accounting records relating to room sales of any operator, after notification to the operator liable for the tax, and may 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.

C. Confidential Character of Information Obtained — Disclosure Unlawful. It is unlawful for the City Recorder 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 to another city 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 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 City Recorder may refuse to make any disclosure referred to in this subsection 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. 9-1975 § 13)

### **3.08.140 Appeals from City Recorder determination under this chapter**

A. The City Council of the City is designated as a committee to hear and determine appeals of orders or decisions of

the City Recorder made upon petitions for redetermination of tax or other pertinent matters for which the City Recorder is herein designated or directed to perform. The City Council, in such capacity, shall act as a committee to hear and determine such appeals and may affirm, modify or reverse such orders or decisions or dismiss the appeals therefrom, as may be just, and shall prescribe such forms, rules and regulations relating to appeals as it may deem necessary. In the review of the City Recorder's decision or order, the Council committee may take such evidence and make such investigation as it may deem necessary. It shall give notice of its determinations in the manner prescribed for service of notice of the City Recorder's decision and shall file a copy of each such determination with the City Recorder with certification thereon of the date of service thereof. Such determination shall become final ten days thereafter and shall thereupon become due and payable, subject to interest and penalties, and enforceable by the City Recorder in like manner as an order or decision of the City Recorder.

B. The City Council sitting as a committee as provided in subsection A of this section shall have the authority:

1. To approve, modify or disapprove all forms, rules and regulations prescribed by the City Recorder in the administration and enforcement of this chapter;

2. To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested, to any form, rule or regulation;

3. To grant for good cause, applications for extensions of time in excess of one month, for making any return or payment of tax, and to prescribe rules therefor;

4. To make such investigations as it deems advisable regarding the imposition and administration of the transient lodgings

tax and to propose the adoption, amendment or repeal of legislation pertaining thereto. With respect to this function, the City Council may appoint a separate committee not composed of Council members to advise and report such findings and recommendations to the Council. (Ord. 9-1975 § 14)

### **3.08.150 Appeal to City Council**

Any person aggrieved by any decision of the City Recorder may appeal to the City Council by filing a notice of appeal with the City Recorder within ten days of the serving or mailing of the notice of a decision given by the City Recorder. The City Recorder shall fix a time and place for hearing such appeal as prescribed by the City Council in its rules and regulations and shall give the appellant ten days' written notice of the time and place of hearing. (Ord. 9-1975 § 15)

### **3.08.160 Violation—Penalty**

Any operator or other person who shall fail or refuse to register as required herein, or who shall fail or refuse to furnish any return, supplemental return or other data required herein or by the City Recorder, or, with intent to defeat or evade the determination of any amount due hereunder, shall make, render, sign or verify any false or fraudulent report, commits a civil infraction subject to enforcement pursuant to Chapter 1.06 of the Code. (Ord. 4-2006 § 2; 9-2004 § 2)

## Chapter 3.12

### SPECIAL ASSESSMENT PROCEDURES FOR PUBLIC WORKS

#### Sections:

- 3.12.010 Definitions.**
  - 3.12.020 Declaration of intention, report of city engineer, recommendations.**
  - 3.12.030 Council considerations of engineer's report.**
  - 3.12.040 Public hearing on Council-approved report.**
  - 3.12.050 Hearing and written remonstrances.**
  - 3.12.060 Manner of doing work, contracts, bids, bonds.**
  - 3.12.070 Special hearing when low bid exceeds estimate.**
  - 3.12.080 Proposed assessment.**
  - 3.12.090 Assessment ordinance.**
  - 3.12.100 Method of assessment and alternative methods of financing.**
  - 3.12.110 Appeal.**
  - 3.12.120 Lien recording, interest, foreclosure.**
  - 3.12.130 Notice of assessment, bonding.**
  - 3.12.140 Errors in assessment calculations.**
  - 3.12.150 Deficit assessment.**
  - 3.12.160 Rebate.**
  - 3.12.170 Abandonment of proceedings.**
  - 3.12.180 Curative provisions.**
  - 3.12.190 Reassessment.**
- 3.12.010 Definitions**

As used in this chapter:

“City engineer” means the duly appointed incumbent of the office of city engineer of the City of Wood Village, if

such office then exists and is occupied. If no such office shall exist or said office shall be vacant, the Council shall designate an engineer or firm of engineers, or other duly qualified person or firm, in connection with any proposed improvement in which event the term “city engineer” shall be held to refer to the engineer, firm of engineers or other duly qualified person or firm so designated.

“Owner” means the record holder of the legal title to the land in question, except that if there is a purchaser of the land whose interest therein is evidenced by a recorded land sale contract thereof, or by a written verified statement by the record holder of the legal title to the land duly filed with the Recorder of the city, then such purchaser shall be deemed the “owner.” (Ord. 2-1961 § 1)

#### **3.12.020 Declaration of intention, report of city engineer, recommendations**

Whenever the Council shall deem it advisable to construct, alter, repair or improve any street, sidewalk, sewer, or other public improvement, to be paid for in whole or in part by special assessments according to benefits, it shall, by resolution, declare its intention to initiate such improvement and direct the city engineer to make a survey and written report of such project and file the same with the City Recorder within the time set forth by the Council in said resolution. Such report shall contain:

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

B. Plans, specifications and estimates of the work to be done;

C. An estimate of the probable costs of the improvement, including legal, administrative and engineering costs attributable thereto;

D. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the costs of the improvement to the property specially benefited, which recommendation shall be in accord with the provisions of Section 3.12.100;

E. An estimate of the unit cost of the improvement to the specially benefited properties, derived from applying the recommended assessment method to the estimated cost of the improvement;

F. A description of the location and assessed value of each lot, tract or parcel of land, or portion thereof, to be specially benefited by the improvement, with the names of the record owners thereof, and, when readily available the names of other owners thereof as herein defined;

G. A statement showing outstanding assessments against the property to be assessed;

H. Any other information required by the Council, who may designate the City Recorder or other public official to assist the city engineer in obtaining the information required in subsections F and G of this section. (Ord. 2-1961 § 2)

of said report, may by resolution, record its intention to abandon the proposed improvement; said resolution shall specify the improvement contemplated together with a description of the boundaries of the district or area proposed to be assessed. (Ord. 2-1961 § 3)

### **3.12.030 Council considerations of engineer's report**

After the city engineer shall have filed his report with the City Recorder as above provided, the City Recorder shall present said report to the Council for its consideration. The Council shall, by resolution, approve the report as submitted, amend the report and approve as amended or direct the city engineer to furnish it with a further report or information, or, on the basis

**3.12.040 Public hearing on Council-approved report**

After the Council has given preliminary approval, as provided in Section 3.12.030, to the engineer's report as submitted or amended the Council shall:

A. Direct the City Recorder to prepare a notice stating that such report is on file in his office and subject to examination by interested parties, giving the date when the same was filed and containing the following information:

1. That the report is on file for examination as above provided;
2. The date such report was filed;
3. The estimated probable cost of such proposed improvement;
4. A brief statement of the area proposed to be assessed therefor;
5. The date of public hearing by the Council when any objections thereto shall be considered;
6. That written remonstrances may be filed against the proposed improvement at the office of the City Recorder not later than the scheduled time for the Council hearing of objections to the proposed improvement;
7. The method of assessment proposed to be used to arrive at a fair apportionment of the total cost of the improvement against the property specially benefited;
8. The city engineer's estimated unit cost of the improvement to the specially benefited property, clearly indicating that this is an estimate and not an assessment.

B. The Council shall specify in the resolution approving the city engineer's report, if such be the case, whether the notice as above provided shall be made by publication, posting or mail, or by a combination of such methods. If the Council shall declare notice be published, the City Recorder shall prepare notice of publication containing the information set forth above,

together with the names of the record owners of the property and a description thereof, either by street number or other legal description and cause the said notice to be published in a newspaper of general circulation, either daily or weekly, within the city; said publication if so ordered shall take place at least twice prior to the hearing provided for therein. If the Council shall determine to give notice by posting, the City Recorder shall prepare a notice containing the same information as provided by published notice, one copy thereof to be posted in the City Hall, and at least four copies thereof shall be posted within the confines of the area where the proposed improvement is to be carried out.

C. In addition to the publication or posting as above set forth, if the City Council shall decide to give notice to the property owners affected, the City Recorder shall cause to be mailed to the last known address of each record owner and, when readily known, to each owner as defined herein, of property to be specially benefited by the proposed improvement, a copy of said notice; if notice be mailed as set forth herein publication or posting need not take place.

D. Said notices, whether by publication, posting or mail, shall provide for the hearing before the Common Council, which may not be less than fourteen (14) days from the date of the mailing or posting, whichever is later, of the said notices. (Ord. 2-1961 § 4)

**3.12.050 Hearing and written remonstrances**

At the hearing provided in Section 3.12.040, the Council shall hear oral objections to the proposed improvement and consider all pertinent points of inquiry concerning the proposed improvement. The Council shall also consider any written remonstrances filed with the City Recorder

to said improvement. As provided by the City Charter of 1953, Section 42, remonstrances by the owners of two-thirds of the property to be specially assessed for the proposed improvement, owner to be as defined in this chapter, shall suspend action regarding the improvement for six months.

If the Common Council, after hearing objections and considering any remonstrances, finds that there is not sufficient remonstrance or the conditions as so provided by the City Charter and above set forth exist, then it may proceed with the improvement. (Ord. 2-1961 § 5)

**3.12.060 Manner of doing work, contracts, bids, bonds**

The Council shall provide by resolution the time and manner of doing the work of such improvement, and may provide for the city to do the work, or it may award the work on contract. In the event the work is done under contract, bids shall be received after advertisement for such time as the Council may determine, on all such work, the estimated cost of which is more than one thousand five hundred dollars (\$1,500.00) as provided in Section 44 of the City Charter, The contract shall be awarded to the lowest responsible bidder, provided the Council shall have the right to reject any or all bids when they are deemed unreasonable or unsatisfactory for any good reason. The Council shall provide for the taking of security by bond for the faithful performance of any contract let under its authority, and the provisions thereof, in case of default, and such shall be enforced in the name of the city.

In no instance may such a contract as above provided be let until the notice set forth in Section 3.12.040 be properly given, public hearing be held and the time for making or filing of remonstrances have

expired and the Common Council determined by resolution to proceed with the proposed public improvement. (Ord. 2-1961 § 6)

**3.12.070 Special hearing when low bid exceeds estimate**

If the Council finds, upon the opening of bids for a public improvement requiring the assessment of property specially benefited thereby, that the lowest responsible bid for such improvement substantially exceeds the engineer's estimate, it may, in its discretion, hold a special hearing of objections to proceeding with the improvement on the basis of such bid and may direct the City Recorder to publish, post, or mail reasonable notice thereof in the manner set forth in Section 3.12.040. (Ord. 2-1961 § 7)

**3.12.080 Proposed assessment**

After the Council has determined that a local improvement shall be made and when the estimated cost has been ascertained on the basis of contract awarded or city departmental costs, or after the work has been done and the cost thereof actually determined the Council shall, if it has not already done so, determine whether the property specially benefited shall bear all or a portion of said cost and thereafter the Council shall designate the City Recorder or other city official to prepare the proposed assessment to the respective lots or parcels of land specially benefited by said improvement and within the assessment district; said proposed assessment shall be filed in the office of the City Recorder. Thereafter notice of said proposed assessment shall be mailed or personally delivered to the owner of each lot or parcel of land proposed to be assessed, which notice shall state the amount of proposed

assessment on said property, a date by which time objections thereto shall be filed with the Recorder and said notice shall indicate that any objections to said proposed assessment shall state the grounds thereof. (Ord. 2-1961 § 8)

### **3.12.090 Assessment ordinance**

The Council shall, after the expiration of the date by which time objections shall be filed with the Recorder to said proposed assessment, consider such objections and may adopt, correct, modify or revise the proposed assessments and shall thereafter determine the amount of actual assessment to be charged against the various lots, parcels and tracts of property specially benefited by said improvement with their apportioned share of the cost of said improvement; and the Council shall by ordinance spread the assessments upon the property in the manner and amounts so determined. The Council may delay the passage of such an assessment ordinance until the contract for the work is let or the improvement completed and the total cost thereof determined if the Council shall desire to avoid deficit assessments or rebates or for any other reason deemed sufficient. (Ord. 2-1961 § 9)

**3.12.100 Method of assessment and alternative methods of financing**

The Council in adopting a method of assessment of the costs of the public improvement may:

A. Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived;

B. Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited;

C. Authorize payment by the City of all or any part of the cost of any such improvement when in the opinion of the Council, due to topographical or physical conditions or excessive public travel, or other character of the work involved, or when the Council otherwise believes the situation warrants it, provided the method selected creates a reasonable relation between the benefits derived by the property specially assessed and the benefits derived by the city as a whole.

Nothing herein contained shall preclude the Council from using other available means of financing public 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 any of such other means of finance are used, the Council may, in its discretion, levy special assessments hereunder according to benefits to cover any part of the costs of the improvement not covered by such means. (Ord. 2-1961 § 10)

**3.12.110 Appeal**

Any person feeling aggrieved by assessments made as herein provided may,

within twenty (20) days from the passage of the ordinance levying the assessment by the Council, appeal therefrom to the Circuit Court of the state of Oregon for the County of Multnomah. Such appeal and the requirements and formalities thereof shall be heard, governed and determined and the judgment thereon rendered and enforced so far as practicable in the manner provided for appeals from assessments contained in Section 223.397 Oregon Revised Statutes, as now or hereafter amended. The result of such appeal shall be a final and conclusive determination of the matter of such assessment, except with respect to the City's right of reassessment as provided herein. (Ord. 2-1961 § 11)

**3.12.120 Lien recording, interest, foreclosure**

After the ordinance levying assessments has been passed, the City Recorder shall enter in the docket of city liens, a statement of the respective amounts assessed upon each particular lot, tract or parcel of land with the names of the record owners thereof, and, so far as readily known, the names of the owners thereof as defined in this chapter. Upon such entry in the lien docket, the amount so entered shall be a lien and charged upon the respective lots, tracts or parcels of land against which the same are placed. Such liens shall be first and prior to all other liens or encumbrances thereon whatsoever insofar as the laws of the state of Oregon allow. Interest shall be charged at a percentage rate per annum fixed by resolution of the City Council on all amounts not so paid within thirty (30) days from the date of such entry, or entry corrected pursuant to Section 3.12.040. The city may proceed to foreclose or enforce any lien to which it shall be entitled pursuant to the provisions of this chapter at any time

after thirty (30) days from the date on which the assessment or assessment corrected pursuant to Section 3.12.040 was entered in the lien docket, in the manner provided for the foreclosure and/or enforcement of liens by the general laws of the state of Oregon. (Ord. 2-1991 § 1 (part); Ord. 2-1961 § 12)

### **3.12.130 Notice of assessment, bonding**

Within ten days after the ordinance levying assessments has been passed, the City Recorder shall send by mail, to his/her last known address, a notice of assessment to the record owner and, so far as is readily known, to the owner as defined in this chapter, of each lot, tract or parcel of land assessed. This notice shall state the time within which such assessments must be paid or bonded and that assessments which are not paid or bonded within the time stated in the notice shall bear interest at the percentage rate per annum fixed by the City Council in accordance with Section 3.12.120, and that the property so assessed is subject to foreclosure if such assessments are not paid or bonded within the time stated in the notice. Such record owner or other owner as defined in this chapter may make application to bond such assessment pursuant to the provisions of Sections 223.205 to 223.300, which is known as the "Bancroft Bonding Act" — Oregon Revised Statutes, together with amendments or future amendments thereof. (Ord. 2-1991 § 1 (part); Ord. 2-1961 § 13)

### **3.12.140 Errors in assessment calculations**

Claimed errors in the calculation of assessments shall be called to the attention of the City Recorder prior to any payment on account thereof. Said City Recorder shall determine whether there is an error in fact

and if he shall find that there is an error in fact, he shall recommend to the Council an amendment to the assessment ordinance to correct the error. Upon the enactment of such an amendment by the Council, the City Recorder shall make the necessary correction in the docket of city liens and send by mail to the last known address of the owner a corrected notice of the assessment. (Ord. 2-1961 § 14)

### **3.12.150 Deficit assessment**

If assessment is made before the total costs of the improvement are known and it be found that the amount assessed is insufficient to defray the expenses of the improvement, the Council may by resolution declare such deficit and prepare a proposed deficit assessment. The Council shall set a time for a hearing of objections to such deficit assessment and shall direct the City Recorder to publish, post or mail reasonable notice thereof in the manner heretofore set forth for publishing, posting or mailing notice. The Council upon such hearing shall make a just and equitable deficiency assessment by ordinance. Such deficit assessment shall be consolidated with the assessment in the lien docket in accordance with the provisions of Section 3.12.120. Thereafter, the provisions of Sections 3.12.130 and 3.12.140 shall be applicable with regard to such deficit assessment. (Ord. 2-1961 § 15)

### **3.12.160 Rebate**

If, upon the completion of the project it is found that any sum theretofore assessed therefor upon any property is more than sufficient to pay the cost thereof, 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 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 treasury. (Ord. 2-1961 § 16)

### **3.12.170 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 assigns, or legal representative. (Ord. 2-1961 § 17)

### **3.12.180 Curative provisions**

No improvement assessment shall be held invalid by reason of a failure to give, in any report, in the proposed assessment, in the assessment ordinance or ordinances, 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 the name of any person having a lien upon or interest in such property, 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 appears that the assessment as made, insofar as it effects 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. (Ord. 2-1961 § 18 (part))

### **3.12.190 Reassessment**

Whenever an assessment, deficit assessment or reassessment for any improvement which has been or may be hereafter made by the city has been or shall be hereafter set aside annulled, declared or rendered void or its enforcement refuted by any court of this state or any federal court having jurisdiction thereof, whether directly or by virtue of any decision of such court, or when the Council shall be in doubt as to the validity of such assessment, deficit assessment or reassessment or any part thereof, the Council may make a new assessment or reassessment. Such reassessment shall be made in the manner provided by Sections 223.405 — 223.485, Oregon Revised Laws, as now or hereafter amended. (Ord. 2-1961 § 19)

## Chapter 3.16

### ESTABLISHING A SYSTEM DEVELOPMENT CHARGE AND PROGRAM

#### Sections:

- 3.16.010** Definitions
- 3.16.020** System Development Charge Established
- 3.16.030** Methodology
- 3.16.040** Compliance with State Law
- 3.16.050** Collection of Charges
- 3.16.060** Credits
- 3.16.070** Appeal Procedures Administrative Review
- 3.16.080** Prohibited Connections
- 3.16.090** Administrative Rules and Procedures
- 3.16.100** Exemptions
- 3.16.110** Expenditure Restrictions

#### **3.16.010** Definitions

As used in this Ordinance and in WVMC 3.16 except when the context otherwise requires, the words and phrases shall have the following meaning:

A. Capital Improvement(s): Facilities or assets of the City used for Water supply, treatment and distribution; waste water collection, transmission, treatment, and disposal; drainage and flood control; parks and recreation; transportation.

B. Development: The act of conducting a building or mining operation or making a physical change in the use or appearance of a structure or land which increases the usage of capital improvements or which creates the need for additional capital improvements, including appropriate partitions and subdivisions and related actions.

C. Improvement Fee: A fee for costs associated with capital improvements to be

constructed after the date this Ordinance becomes effective.

D. Land Area: Area of a parcel of land measured by projection of its boundaries upon a horizontal plane excepting those portions within a recorded right-of-way or easement subject to public servitudes or scenic or preservation purpose.

E. Owner: The record title holder or purchaser under a recorded land sales agreement or any other person having an interest of record in the described real property.

F. Parcel of Land: A lot, parcel, block, or other tract of land occupied or which may be occupied by a structure or other use which includes yard areas or other open spaces required under zoning or other land development code or regulations of City .

G. Qualified Public Improvements: A capital improvement that is: (1) required as a condition of development approval; (2) identified in the capital improvement plan (Master Plan) of the City; (3) not located on or contiguous to a parcel of land that is the subject of the development approval (as used in this definition “contiguous” means: in a public way which abuts).

H. Reimbursement Fee: A fee for costs associated with capital improvements constructed or under construction on the effective date of this Ordinance.

I. System Development Charge: A reimbursement fee, an improvement fee or 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

#### **3.16.020** System Development Charge Established

A. Unless otherwise exempted by the provisions of this ordinance, or other City

Ordinance or State law, a systems development charge is hereby imposed on all new development within the City, outside City boundaries that connects to or uses the City's sanitary sewer facilities, storm sewer, water facilities, parks system, or transportation system.

B. The specific system development charges for each applicable usage as herein set forth, shall be established by Resolution of the City Council which shall set forth the amount of the charge, the type of permit to which the charge applies, and if such charge applies to an area smaller than the city as a whole, and in such case, the area subject to the charge. A Resolution of the Council establishing system development charges, or any portion thereof, may be amended or modified from time to time by the Council as the City's need and directions dictate following public hearing upon the modifications or amendments proposed.

### **3.16.030 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 principles employed to finance City owned capital improvements, and other relevant factors identified by the City Council. The methodology shall promote the objective that future system 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 City's concerned system to which the fee is related and a credit against the improvement fee for the construction of any qualified capital improvement of the City.

C. The specifics of the methodology set forth above shall be, if required, approved by the City Council and set forth in the Resolution adopting the specific system development charges.

### **3.16.040 Compliance with State Law**

A. Revenues received from the City's system development charges shall be deposited to the appropriate and designated fund and budgeted and expended as provided by State law. The Finance Director 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.

B. The capital improvement plan required by State law as the basis for expending revenues from the improvement fee of the system development charge shall be the City of Wood Village designated Capital Improvement Plan.

### **3.16.050 Collection of Charges**

A. The system development charge is payable upon issuance of a building permit, a development permit, whether the issuance of a building permit is required or not, or a permit or approval to connect with the City's water system, sanitary sewer, storm sewer system, or a right-of-way access permit

B. If development is commenced or connection is made to the concerned City's system as herein defined without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

C. The City shall collect system development charges from the person responsible for or receiving the benefit of

the development. The City Administrator or his or her designee shall not issue any permit or allow connection described herein or in appropriate City administrative rule or regulation until the charges have been paid in full or until provision for appropriate phased development installment payments have been made within applicable time limits.

D. Any unpaid system development charge and interest thereon at legal rate shall constitute a lien against the concerned parcel of land with the same priority as a local improvement lien and subject to collection and foreclosure as such or as otherwise provided by appropriate State statute.

### **3.16.060 Credits**

A. When a development occurs that must pay a system development charge, the SDC for the existing use shall be calculated, and if it is less than the SDC for the proposed use, the difference between the SDC for the existing use and the SDC charge for the proposed use shall be the system development charge required. If the change in use results in the SDC for the proposed use being less than the SDC for the existing use, no SDC charge shall be required, however, no refund or credit shall be given.

B. The limitations on the use of credits contained in this subsection shall not apply when credits are given under subsection (C) of this section. A credit shall be given for the cost of a qualified public improvement associated with a development. If a qualified public improvement is located in whole or in part on or contiguous to property that is the subject of development approval and required to build a larger facility or a facility with greater capacity than is necessary for the particular development project to which the improvement fee is related, then the City

Council may grant a credit only for the cost of that portion of sum 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.

C. In establishing the methodology for each charge, the City Council may provide a greater credit, or establish a system providing for the transferability of credits from one phase of development to another phase of a development, or provide a credit for a capital improvement not identified in the plan adopted pursuant to ORS 223.309, or provide a share of the cost of such improvement by other means.

D. Credits as herein set forth shall not be transferable from one type of capital improvement to another.

### **3.16.070 Appeal Procedures Administrative Review**

A. A person aggrieved by a decision made by the City Administrator or his or her designee under Sections 6 through 10 hereof or a person challenging the propriety of an expenditure of system development charge revenues, may appeal the decision or the expenditure by filing a written request with the City Recorder for consideration by the City Council. Such appeal shall describe with particularity the decision or the expenditures from which the person appeals and shall comply with subsection (C) of this section.

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 fifteen days of the date of the decision.

C. The appeal shall state: (1) the name and address of the appellant; (2) the nature

of the determination being appealed; (3) the reason the determination is incorrect; (4) what the correct determination of the appeal should be. Any appellant who fails to file such a statement within the time permitted waives his/her objections and his/her appeal shall be dismissed.

D. Unless the appellant and the City agree to a longer period, an appeal shall be heard within thirty days of the receipt of the notice of intent to appeal. At least ten days prior to the hearing, the City shall mail notice of the time and location thereof to the appellant

E. The City Council shall hear and determine the appeal on the basis of the appellant's written Statement and any additional evidence the City Administrator or his or her designee deems appropriate. At the hearing the appellant may present testimony and oral arguments personally or by legal counsel.

F. The appellant shall carry the burden of proving that the determination being appealed is incorrect and what the correct determination should be.

G. The City Council shall make its determination of the appeal in accordance with this Ordinance and the provisions of ORS 223.297 to 223.314 and may affirm, modify, or overrule the City official's decision. City Council shall issue its written decision upon the appeal within twenty days following the close of the hearing, and that decision shall be final.

H. If the Council determines 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 a specified period of time not exceeding one year to the credit of the account or fund from which it was spent. The decision of the Council in all matters herein set forth shall be reviewed

only as provided in ORS 34.010 to ORS 34.100.

I. Legal action challenging the methodology adopted by the Council pursuant hereto and this section, shall be filed not later than sixty days after the adoption. A person contesting the methodology used for calculating a system development charge shall proceed only as provided in ORS 34.010 to 34.100.

### **3.16.080 Prohibited Connections**

A. No person may connect to the City's water or sewer systems unless the appropriate system development charge has been paid or unless otherwise authorized by specific resolution of the City Council.

B. In conformance with City rules and regulations, any connection to the City's supply lines, pipes or systems, if wrongfully made and/or maintained, may be removed by the City upon specific direction of the City Council. In addition, the City shall have all rights provided for or reserved to it under the laws of the State of Oregon to enforce this provision including the right to seek injunctive relief from the Oregon Circuit Court.

### **3.16.090 Administrative Rules and Procedures**

A. Consistent with ORS 223.297-314 and this Ordinance, the City shall by appropriate Resolution adopt pertinent administrative rules and regulations to promote a uniform and equitable application and operation of the system development ordinance charges and programs, which Resolution may be amended from time to time as required. These administrative rules and procedures may be included in the City's Resolutions establishing specific system development charges hereunder.

### **3.16.100 Exemptions**

Additions to single family dwellings that do not constitute the addition of a dwelling unit as defined by the Uniform Building Code are exempt from system development charges; and alteration, addition, replacement or change in use that does not increase a parcel's or structure's use of public improvement facilities otherwise subject to SDC charges, are exempt from all portions thereof.

### **3.16.110 Expenditure Restrictions**

System development charge revenues may be expended on direct costs of complying with the provisions of this Ordinance, including the cost of developing system development charge methodologies and providing annual accounting of system development charge expenditures. SDC charges shall not be expended for costs associated with the construction of administrative office facilities nor for costs of the operation or routine maintenance of capital improvements. (New Ord. 7-1998)

## Chapter 3.18

### PRIVILEGE TAX UPON ELECTRIC PUBLIC UTILITIES

#### Sections:

- 3.18.010 Privilege tax imposed.**
- 3.18.020 Definition of “gross revenue.”**
- 3.18.030 Payment dates.**
- 3.18.040 Interest on late payments.**
- 3.18.010 Privilege tax imposed.**

#### **3.18.010 Privilege tax imposed.**

A privilege tax is imposed on the gross revenues of any electric public utility providing electricity to customers or users within the Wood Village city limits in the amount of one and one-half percent of those revenues. As used herein, “electric public utility” means a “public utility” as defined by ORS 757.005(1) that provides electricity directly or indirectly to or for the public. Any privilege tax shall be in addition to any franchise fee imposed by a franchise ordinance.

#### **3.18.020 Definition of “gross revenue.”**

As used in this chapter, “gross revenue” means revenues received by an electric public utility from the sale of electric energy within the city. “Gross revenues” includes revenues from the use, rental or lease of operating facilities of an electric public utility other than residential-type space and water heating equipment. Gross revenues do not include proceeds from the sale of bonds, mortgage or other evidence of indebtedness, securities or stock, or sales at wholesale prices by one public utility to another when the utility purchasing the service is not the

ultimate consumer, and revenue from joint pole use.

#### **3.18.030 Payment dates.**

The tax owed for calendar or part of a calendar year shall be paid on or before April 1<sup>st</sup> based on the revenues received the previous calendar year. The first payment under this Ordinance will therefore be due April 1, 2005, based upon gross revenues earned in calendar year 2004.

#### **3.18.040 Interest on late payments.**

In the event the privilege tax is not paid on or before the due date, interest shall be owed on the tax in the amount of nine percent from the date due to the date on which payment is received by the city, compounded daily. (New Ord. 2-2004)

## CHAPTER 3.20

### REIMBURSEMENT DISTRICTS

#### Sections:

- 3.20.010 Definitions.**
- 3.20.020 Purpose and Scope.**
- 3.20.030 Initiation of Proceedings.**
- 3.20.040 City Administrator's Report.**
- 3.20.050 Formation of Reimbursement District.**
- 3.20.060 Certificate of Payment and Right to Reimbursement.**
- 3.20.070 Obligation to Pay District Connection Charge, Penalty.**
- 3.20.080 District Term, Extension**

#### **3.20.010 Definitions.**

A. “District Connection Charge” means the charge imposed pursuant to WVC Chapter 3.20 designed to reimburse a person for the costs of financing a sewer, street, surface water management or water improvement. The District Connection Charge is not intended to limit or replace, and is in addition to, any other existing fees or charges collected by the City.

B. “Person” means an individual or any legal entity, including the City of Wood Village.

C. “Reimbursement District” means the area benefited by the construction of sewer, water, surface water management or street improvements financed in whole or in part by a person without the formation of a local improvement district. A Reimbursement District may be formed in conjunction with a local improvement district where a person finances a share of the cost of the improvement that is larger than the share

that would result from a uniform application of the district assessment formula to property located in the district and owned by the person.

D. “Sewer Improvement” means a sewer system or sewer line improvement conforming to City standards including but not limited to:

1. Extension of a sewer line to property other than that owned by the person financing the improvement so that sewer service can be provided to that property without further extension of the line;

2. Construction of a sewer line larger, deeper, or of greater capacity than necessary to serve the property of the person financing the improvement in order to provide future service to other properties without the need to reconstruct the line, or constructing additional, deeper or parallel lines; and

3. Construction of capacity-increasing off-site improvements that benefit development of properties in addition to the person financing the improvements.

E. “Street Improvement” means a street or street improvement conforming to City standards and including but not limited to streets, surface water drainage facilities in conjunction with streets, curbs, gutters, sidewalks, bike and pedestrian pathways, traffic control devices, street trees, lights and signs and public right-of-way or easement acquisition.

F. “Surface Water Management Improvement” means a surface water quality or quantity facility conforming with City standards including but not limited to:

1. Extension of a surface water management line to property other than that owned by the person financing the improvement so that surface water management service can be provided to that property without further extension of the line;

2. Construction of a surface water management line larger, deeper, or of greater capacity than necessary to serve the property of the person financing the improvement in order to provide future service to other properties without the need to reconstruct the line;

3. A detention facility with the capacity to serve upstream properties; and

4. A water quality facility with capacity to serve upstream properties.

G. “Water Improvement” means a water system or water line improvement conforming with City standards including but not limited to:

1. Extension of a water line to property other than that owned by the person financing the improvement so that water service can be provided to that property without further extension of the line;

2. Construction of a water line larger, deeper, or of greater capacity than necessary to serve the property of the person financing the improvement in order to provide future service to other properties without the need to reconstruct the line, or constructing addition, deeper, or parallel lines; and

3. Construction of capacity-increasing off-site improvements to the water system, including wells and water lines, that benefit development of properties in addition to the person financing the improvements.

### **3.20.020 Purpose and Scope.**

WVC Article 3.20 provides a method to reimburse a person or the City who finances the construction of a sewer, water, surface water management or street improvement in whole or in a disproportionately large part. It is intended to be used to mitigate the cost of financing such public improvements by distributing those costs to other benefited property owners at the time those benefited

property owners connect to or make use of the improvement.

### **3.20.030 Initiation of Proceedings.**

A. Any person may apply to the City to form a Reimbursement District where the person chooses or is required as a condition of permit approval to construct a street, sewer, surface water management or water improvement that includes additional or oversized improvements that would or could provide service to property other than property owned by the applicant. Examples include but are not limited to:

1. Full street improvements instead of half street improvements;

2. Construction of off-site sidewalks or pathways;

3. Connection or extension of street sections for continuity;

4. Extension of water, surface water management or sewer lines to upstream properties.

5. Oversizing or other capacity increasing improvements to water, surface water management or sewer lines or systems or surface water quality or detention facilities if the over sizing costs are not fully reimbursed by the City directly or through System Development Charge ("SDC") credits.

B. The application shall be in writing and shall be accompanied by a processing fee established by resolution of the City Council sufficient to cover the administrative and notice costs of processing an application pursuant to this ordinance. The application shall include the following:

1. A description of the location, type, size, and cost of the public improvement.

2. A narrative explaining why the applicant believes all or part of the cost of

the improvement is eligible for reimbursement pursuant to this ordinance.

3. A map showing the properties to be included in the proposed district, including the City Zoning designation, the square footage or frontage of the property or properties and identification of the properties owned by the applicant, if any.

4. The cost of the improvements to be reimbursed. If the application is filed after construction, the application shall include the actual costs of construction as evidenced by a contract, receipts, bids or other similar documents. If the application is filed prior to construction, the application shall include the estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials or other similar evidence satisfactory to the City Administrator.

5. The date that the City accepted the public improvements or the date that the improvements are estimated to be complete.

C. An application to form a Reimbursement District may be made no later than three months after completion and acceptance of the street, sewer, surface water management or water improvements. The City Administrator may waive this deadline if the applicant demonstrates that the delay was not created by the applicant and was created by unanticipated or unforeseen circumstances.

**3.20.040 City Administrator's Report.**

A. The City Administrator shall review a request for the establishment of a Reimbursement District and determine whether a district should be established. The City Administrator may request the submittal of any other relevant information from the applicant in order to assist in this evaluation. If the Administrator determines that formation of a Reimbursement District

is appropriate, the Administrator shall prepare a written report that:

1. Explains why the applicant is qualified for reimbursement pursuant to WVC Article 3.20.

2. Establishes the area of the Reimbursement District, the district formation date and the date when the right of reimbursement ends.

3. Sets forth the actual or estimated cost of the street, water, surface water management or sewer improvements and the portion of the cost for which the applicant should be reimbursed.

4. Establishes a methodology for spreading the cost among the properties within the Reimbursement District and, where appropriate, defining a "unit" for applying the reimbursement charge to property that may, with City approval, be partitioned, adjusted or subdivided at some future date. The methodology should consider the cost of the improvements, prior contributions by property owners, the value of the unused capacity, rate making principles employed to finance public improvements, and other factors deemed relevant by the City Administrator. Prior contributions by property owners shall only be considered if the contribution was for the same type of improvement and at the same location.

5. Establish the reimbursement charge for the district.

6. Direct that a certificate of payment and right of reimbursement be issued to the district applicant.

B. Determining Reasonable Actual Costs. The applicant shall not be entitled to reimbursement for any costs in excess of reasonable actual costs. If the Reimbursement District is formed before actual costs are known, the City Administrator's report may be based on estimated costs. If estimated costs are used,

the methodology or the certificate of payment or both shall provide for a recalculation of the cost no later than three months after completion and acceptance of the improvement by the City. An applicant shall demonstrate actual costs by submitting contracts, invoices or such other documentation as the City Administrator deems sufficient. Actual costs shall not be deemed reasonable if the City Administrator determines that such costs significantly exceed prevailing market rates for similar projects. In such a case, the City Administrator may reduce the reimbursable costs to the prevailing market rate for similar projects. In addition, the following costs shall not be subject to reimbursement:

1. Costs for that portion of the improvement that benefits the applicant's own property.

2. Costs for improvements that are not dedicated to and accepted by the City as a public improvement.

3. Costs for a public improvement that is required as a condition of development approval, except in cases where the nature and degree of the public improvement is disproportionate to the impacts of the development or where the City desires an oversized or additional improvement beyond that which is roughly proportional to the impacts of the development.

4. Costs other than the costs of construction, including the acquisition and condemnation costs of acquiring additional right-of-way and/or easements, the actual cost of permits, engineering and legal services as demonstrated by invoice, and the estimated annual percentage increase in such costs over the ten (10) years that the Reimbursement District will be in effect.

5. Costs for relocation of electrical, telephone, cable television or natural gas utility relocation benefiting an applicant's property.

6. Costs for extra work or materials required to correct deficiencies in construction to bring the improvement to City Standards.

7. Costs for sanitary sewer, surface water management facilities, water or street improvements that are the minimum size necessary to meet City standards and serve an applicant's property.

8. Costs for a minor street realignment, except for the cost of right-of-way acquisition beyond the limits of the applicant's frontage along the improved street.

9. Costs that are fully or partially reimbursed by the City either directly or through SDC credits. If SDC credits are available for the project, such credits must first be sought. If SDC credits are insufficient to reimburse the applicant for the cost of such improvements, the applicant may elect to spread the remaining costs via a Reimbursement District or by transferable SDC credits, but may not do both.

C. If the City Administrator determines that a Reimbursement District should not be formed, the Administrator shall prepare a written report explaining why the City Administrator believes that formation of the Reimbursement District would be inappropriate or does not qualify pursuant to WVC Article 3.20. The report shall be mailed to the applicant along with a written notice that the City Administrator's determination may be appealed to the City Council by filing a written notice of appeal within fourteen days of the date of mailing the report and notice. The notice of appeal shall be in writing, shall explain why the City Council should reverse or modify the decision of the City Administrator, and shall be accompanied by payment of the applicable appeal fee, if any is established by resolution of the City Council. If a notice of appeal is filed in compliance with all of

these requirements, a hearing shall be held and a decision rendered by the City Council as provided in WVC 3.20.050(4).

**3.20.050 Formation of Reimbursement District.**

A. Notice of Proposed Formation. Following completion of the City Administrator's Report, notice of formation of the proposed Reimbursement District shall be mailed by regular mail to the applicant and to all property owners within the proposed District of the benefit as shown on the most recent assessment roll in the possession of the county assessors office. Notice shall be deemed effective on date of mailing. Failure to receive notice by the applicant or any affected property owner shall not invalidate or otherwise affect formation of the Reimbursement District.

The notice shall:

1. State that a Reimbursement District has been proposed that includes the property of the person receiving notice.
2. Briefly describe the Reimbursement District, the street, water, sewer or surface water management improvement to be reimbursed, the amount of the District Connection Charge, and the circumstances under which the Charge must be paid.
3. Include a statement that the City Administrator's report is available for public inspection, including how a member of the public may review or obtain a copy of the report.
4. State that any property owner within the Reimbursement District may file a written request for a hearing on the proposed formation before the City Council by filing a written request for a hearing as provided in subsection 2 of this section with the City Recorder within fourteen (14) days of the date of notice.

5. State that unless a written request for hearing is filed within the required time period, the Reimbursement District shall be deemed approved on the 15<sup>th</sup> day following the date of notice.

B. Filing a Request for Hearing. Any property owner within a proposed Reimbursement District may request that a hearing on the proposed formation be held before the City Council by filing a written request for hearing within fourteen (14) days of the date that notice is provided pursuant to subsection 1 of this section. No fee shall be charged for filing a request for hearing. The written notice shall contain the name and address of the person requesting the hearing and a brief statement explaining why the person believes that the proposed Reimbursement District should be modified or not be formed.

C. Modification. Upon receipt of a written request for hearing, the City Administrator may either reconsider and/or modify the Reimbursement District as proposed in the City Administrator's Report or may schedule the request for a public hearing before the City Council. If the City Administrator decides to modify the proposed district, notice of the modification shall be mailed as provided in subsection A of this section, which modification is subject to a request for hearing as provided in subsection B of this section.

D. Hearing. The City shall schedule a public hearing on the proposed Reimbursement District within a reasonable time following the request. Notice of the hearing shall be mailed by regular mail to the applicant and all property owners who received notice of the proposed Reimbursement District as provided in subsection 1 of this section. Notice shall be mailed at least fourteen (14) days before the date of the hearing. The Notice shall set forth the time, date and place of the public

hearing and shall include the information required by subsection A(1) through A(3) of this section. The notice shall also state that any person may appear and be heard. At the scheduled time, the Mayor shall open the public hearing and shall take testimony generally on the proposed Reimbursement District. The Mayor may impose reasonable time limits on testimony. Following the close of the public testimony, the Mayor shall bring the matter back to the table for deliberation and decision. The Council shall make a preliminary decision to approve, reject or modify the proposed Reimbursement District as set forth in the City Administrator's report. The preliminary decision shall be followed up by adoption of a formal written Order. An order approving formation of the Reimbursement District shall incorporate the City Administrator's Report including any modifications, if any, made by the City Council. An order reversing a decision of the City Administrator not to form a Reimbursement District pursuant to WVC 3.20.040(C) shall set forth the information required in WVC 3.20.040(A)(1) through (6).

E. Formation. The Reimbursement District shall be deemed to be formed on the fifteenth day following the notice provided in subsection A of this section if no request for hearing is filed, on the fifteenth day following the second notice if the Reimbursement District is modified pursuant to subsection C of this section, or on the date of adoption of the City Council's written order if a hearing is requested and held. Notice of formation shall be mailed by regular mail to the applicant and to all property owners within the proposed district. The notice shall include the date of formation, shall state that a copy of the final City Administrator's report or Council Order is available, shall include a telephone number of the City Recorder through whom

a copy can be requested, and shall include a short explanation of when the property owner is obligated to pay the District Connection Charge and the amount of the Charge.

F. Recordation. The City Recorder shall cause notice of the formation and nature of the Reimbursement District to be filed in the office of the county recorder so as to provide notice to potential purchasers of property within the district. The recording shall not create a lien. Failure to make such a recording shall not affect the legality of the formation or the obligation to pay the District Connection Charge.

G. Challenge to Formation. No legal action intended to challenge or contest the formation of the Reimbursement District or the methodology or amount of the District Connection Charge shall be filed after sixty (60) days following formation of the Reimbursement District pursuant to subsection E of this section. No legal action may be filed unless the party first exhausted their administrative remedies by requesting and participating in a hearing before the City Council, or by participating in a hearing before the City Council requested by a third party, pursuant to subsections (B) and (D) of this section.

### **3.20.060 Certificate of Payment and Right to Reimbursement.**

The certificate of payment and right to reimbursement is a contract right between the City and the applicant. The certificate shall at a minimum identify the person receiving the right of reimbursement, the reimbursed amount per unit, the area of the Reimbursement District, the date of district formation and the date upon which the right to reimbursement ends. The requestor's right to reimbursement is assignable and transferable after written notice is delivered

to the City advising the City to whom future payments are to be made. The certificate shall also provide that the applicant shall defend and indemnify the City from and against any and all challenges to the formation of the reimbursement district or the collection of the District Connection Charge.

**3.20.070      Obligation to Pay District Connection Charge, Penalty.**

A. An owner of property within any Reimbursement District shall pay to the City, in addition to any other applicable fees and charges, the District Connection Charge established in the City Administrator's written report when any of the following events occur:

1. The property owner receives final approval for a development permit to subdivide or partition property located within the district, or

2. A use of property is expanded to create additional "units", as that term is defined in the Administrator's report for the particular district. The term "unit" is not limited to residential uses.

3. A property owner connects to the sewer line or water line or makes use of the surface water management or street improvement. As used in this subsection, "makes use of the surface water management improved" means installation of an improvement that substantially increases impervious surface on the property at the time of or following construction of the surface water management improvement for which the Reimbursement District has been formed. As used in this subsection, "makes use of the street improvement" means installation of an improvement or changing the use of the property at the time of or following construction of the street

improvement that increases traffic or congestion on the road improvement for which the Reimbursement District was formed.

B. The charge is due and payable as a precondition of receiving the first City permit applicable to the development activity undertaken, or, in the case of a connection to a line, as a precondition of receiving the connection permit.

C. The connection charge may be paid in installments in the same manner as a systems development charge.

D. A person who becomes obligated for payment of the District Connection Charge as the result of connection to a line constructed through the local improvement district process and who owns property within the district upon which an assessment is levied may be assessed for the District Connection Charge as an added portion of the assessment levied through the improvement district.

E. The failure to pay the District Connection Charge when due is a civil infraction subject to enforcement pursuant to Chapter 1.06 of the Code (Ord. 4-2006 § 3)

**3.20.080      District Term, Extension**

The initial term of the District shall be ten years from the date of formation. The applicant or its successor in interest may apply for up to two addition five-year extensions of the District by filing a written request for an extension with the City Public Works Director prior to the expiration of the preceding term. The City Council may establish by resolution a processing fee sufficient to cover its actual costs of processing the request for an extension. The City Council shall grant such extensions if development of un- or underdeveloped property within the District would continue

to benefit from the improvement for which  
the District was formed.