



CITY OF BEAVERTON

CITY ORDINANCES

ORDINANCE #3787 - CODE - AMEND CH 4 BVTN CODE, ADDING NEW

PROVISIONS, REPEALING 3.15.010 to 3.15.045

NUMBER OF PAGES 6

AN ORDINANCE AMENDING CHAPTER 4 OF THE BEAVERTON CODE, ADDING NEW PROVISIONS, REPEALING CODE SECTIONS 3.15.010 TO 3.15.045 AND DECLARING EFFECTIVE DATES.

WHEREAS, the Council finds that Oregon law and the Oregon Constitution now require consideration of the means by which the City imposes charges on development activity for the cost of infrastructure improvements; and

WHEREAS, the City and the Unified Sewerage Agency of Washington County each have commissioned independent studies of an appropriate amount to be charged to development activity for potable water and storm water detention facilities, respectively, and the Council desires to adopt the methodology set out in those studies supporting those charges; and

WHEREAS, the Council finds that Oregon law and the Oregon Constitution require similar methodologies to support imposition of a street systems development tax and a storm drainage systems development charge on development activity, and finds that the county-wide traffic impact fee adequately substitutes for the former and no methodology presently is available for the latter, thus requiring repeal of the one charge and suspension of the other, now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Beaverton Code Section 4.01.010 is amended by adding new provisions reading as follows:

"Systems Development Charge (SDC) - Has the meaning given to that term in ORS 223.299 (1989 version)."

Section 2. Beaverton Code Section 4.01.015 is amended at the end of the section by adding a new sentence, reading as follows:

"In addition to any other remedy available to it, the City may deny any and all discretionary permits to a person or his or her agent or employee if any or all of a fee imposed for any aspect of property development or redevelopment or an installment payment of that fee is due the City from that person but is unpaid and delinquent."

Section 3. The Beaverton Code is amended by adding a new section thereto, to be numbered 4.01.100 and reading as follows:

"4.01.100. Challenge to SDC Expenditure. A person who challenges the City's expenditure of SDC revenue shall file the challenge in writing with the City Recorder stating the grounds for the challenge. A challenge to an SDC expenditure shall be void and of no legal effect if not received by the City within two years from the date of the first purchase order or other debt instrument executed by the City making all or part of that expenditure. On the City's receipt of a valid challenge the Mayor or his/her designee shall investigate the matter and shall issue a formal determination of the validity of the expenditure in writing within 30 days from the date the challenge is received. The Mayor's determination shall be final unless the person who filed the challenge appeals that determination in writing to the City Recorder no later than 14 days after the date of the Mayor's determination. On receipt of a timely-filed appeal the City Recorder shall set the matter for public hearing at the next available regular meeting of the City Council. The Council after public hearing shall affirm, reject or modify the Mayor's determination based on the record made at the hearing by majority vote of those present; its vote on the matter shall be final."

Section 4. The Beaverton Code is amended by adding a new section thereto, to be numbered 4.01.200 and reading as follows:

"4.01.200. Installment Payments of SDC.
A. Except where the Washington County Ordinance relating to a traffic impact fee provides otherwise, a

person from whom an SDC in an amount not less than \$500 is due and payable may apply to the City on or before the due date to pay same in equal semi-annual installments with interest over a period not to exceed 10 years.

B. The Finance Director in his/her discretion shall determine from time to time the appropriate interest rate to be charged for such installment payments sufficient to recoup the City's costs to administer the installment payment process and reflecting the present state of the local market for sale or guarantee of the payments receivable.

C. No application for installment payment financing of SDC shall be valid unless in writing on a City-approved form, signed by the owner of the property on which the development subject to the SDC occurs or the owner's agent with authority, submitted with a non-refundable application fee set by the Finance Director, and accompanied by written acknowledgement by any and all persons presently holding security interests in the same property that the City's lien on the property for payment of the installments shall be prior and superior to any other lien. The Finance Director shall reject any application as to which the evidence available to him/her shows that the fair market value of the owner's interest in the property free and clear of property taxes and all other existing liens and encumbrances does not equal or exceed the amount to be financed by the City.

D. Notwithstanding any other provision in Oregon law or this Code and in addition to any other remedy available to it, if any installment payment of principal or interest on an SDC is unpaid for more than 30 days after the due date, the City may declare the entire remaining balance of the SDC due and payable at once and if not so paid, may proceed to foreclose its lien on the property for that remaining balance."

Section 5. The Council suspends indefinitely the imposition of the systems development charge for offsite storm drainage now provided for in Beaverton Code Sections 4.07.020, -.030 and .060 as to all development or redevelopment otherwise subject to that charge and for which a building permit application first was submitted to the City on or after July 1, 1991.

Section 6. Beaverton Code Section 4.07.040 is amended to read as follows:

"4.07.040 Systems Development Charge in Lieu of On-Site Storm Water Quality and Quantity Control Facilities.

A. On all development or redevelopment of property for which the City Engineer determines construction of on-site storm water detention quality or quantity control facilities to be not required by or expressly excepted from the Unified Sewerage Agency's standards, there is imposed a systems development charge in lieu of construction of either or both such facilities by the developer.

B. The Council adopts the methodology of the Unified Sewerage Agency of Washington County as is set out in the cost analysis by Brown and Caldwell dated June 5, 1991, on file with the City Recorder, and finds that the amount of \$238/EDU for quality control and \$291/EDU for quantity control facilities represent a fair and reasonable charge for improvements to be constructed by the City.

C. A person who constructs on-site storm water quality or quantity control detention facilities or both shall not thereby be entitled to a credit against any other systems development charge otherwise due for the act of development or redevelopment.

D. The Council authorizes the Mayor in his discretion to accept real property rights having an appraised fair market value equal to or greater than the fee(s) in lieu of on-site construction of storm water quality or quantity control detention facilities, in place of the fee(s) for same otherwise due from the act of development or redevelopment."

Section 7. Beaverton Code Section 4.02.035C is amended to read as follows:

"C. The Council by ordinance shall establish a systems development charge for potable water and the methodology supporting that charge, and by resolution may establish a connection fee, meter installation fee and any other appropriate fees and charges."

Section 8. The Council adopts the methodology set out in the study by CH2M, Hill Public Financial Management, Inc. dated July 1991 and incorporated by this reference, a copy of which is

on file with the City Recorder, and hereby imposes a systems development charge for capital facilities reimbursement and improvements on all development and redevelopment in the City for which a building permit is required, in the amounts set out in Table 2-7 of that study.

Section 9. Beaverton Code Sections 3.15.010 to 3.15.045 inclusive are repealed, now for then to July 1, 1991.

Section 10. A. Where this Ordinance imposes a systems development charge in an amount greater than that in effect on June 30, 1991 the charge imposed herein shall be effective (1) As to all building permit applications received by the City on or after the regular effective date of this Ordinance; and, (2) As to all building permit applications accepted by the City's building official before the regular effective date and for which the systems development charge(s) are not fully paid within 60 days after the regular effective date; provided further, that any substantial modifications to building permit applications submitted on and after the regular effective date of this Ordinance, shall be deemed a new permit application for that building. B. Where this Ordinance imposes a systems development charge in an amount less than that in effect on June 30, 1991, the charge imposed herein shall be effective now for then to all applications for building permits received by the City on or after July 1, 1991.

First reading this 26th day of August, 1991.

Passed by the Council this 9th day of September, 1991.

Approved by the Mayor this 11th day of SEPTEMBER, 1991.

ATTEST:

APPROVED:

Ann L. Johnson
ANN L. JOHNSON, City Recorder

Larry D. Cole
LARRY D. COLE, Mayor