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IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance Providing for the)
 Imposition of System Development Charges for)
 Transportation Capital Facilities; Authorizing and) ORDINANCE No. 654
 Establishing Procedures for Receipt and Expenditure)
 of Such Charges; Effective November 16, 1998.)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in formal session on August 13, 1998, commissioners Ted Lopuszynski, Robert Johnstone and Thomas E. E. Bunn being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. On July 30, 1998 the Board opened a public hearing in Room 32 of the county courthouse to accept testimony regarding the imposition of a system development charge for transportation capital facilities. Notice of the public hearing appeared in the Newberg Graphic on July 15, 1998 and the McMinnville News-Register on July 16, 1998. Copies of the proposed ordinance and methodology reports were previously available for public review. The hearing was continued to August 4, 1998 in Room 32. Testimony was received on July 30, 1998 and on August 4, 1998.

B. Future growth should contribute its fair share to the cost of improvements and additions to County transportation capital facilities that will accommodate the needs of such growth. The imposition of system development charges will provide a source of revenue to fund the construction or improvement of the County's transportation capital facilities.

C. In 1989 the Oregon legislature adopted ORS 223.297 to 223.314 to authorize local governments to impose system development charges for capital improvements. The Board has determined that it is in the public interest to provide for capital facilities through the use of system development charges.

D. System development charges are charges incurred upon the decision to develop property at a specific use, density and/or intensity, and the incurred charge equals, or is less than the actual cost of providing public facilities commensurate with the needs of the chosen use, density, and/or intensity. Decisions regarding uses, densities, and/or intensities cause direct and proportional changes in the amount of the incurred charge. System development charges are separate from and in addition to any applicable tax assessment, charge, fee in lieu of assessment, or other fee provided by law or imposed as a condition of development.

E. System development charges are fees for services because they are based upon a development's receipt of services considering the specific nature of the development. System development charges are imposed on the activity of development, not on the land, owner, or

property, and therefore, are not taxes on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or the legislation implementing that section.

F. This Ordinance is intended to be a financing mechanism only and does not represent the consideration of land use planning issues; NOW, THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

SECTION 1 POLICY, PURPOSE AND TITLE

1.1 -- POLICY.

(1) The Board of Commissioners of Yamhill County recognizes that the Oregon legislature has enacted ORS 223.297 to 223.314 to authorize local governments to impose system development charges on new development for the purpose of providing a source of funding for certain capital facilities, including transportation facilities, which will serve needs created by such development.

(2) The Board further recognizes that if system development charges are not imposed on future development, a burden will be placed on current residents of the County who will be faced with the choice of either paying increased taxes and/or other fees in order to provide the additional transportation facilities required to serve future development, or experiencing reduced levels of service at such facilities as a result of overcrowding.

(3) Pursuant to the provisions of ORS 223.297 to 223.314, the Board finds it necessary to impose system development charges on new development for the purpose of providing a source of funding for transportation capital facilities.

1.2 -- PURPOSE. ORS 223.304 requires that system development charges must be established by ordinance or resolution. The ordinance or resolution must set forth a methodology that considers the cost of projected capital improvements needed to increase the capacity of facilities to meet the needs of future development and it must provide for a credit against the system development charge for the construction of a "qualified public improvement." This ordinance is enacted to comply with these requirements and to:

- (1) Provide a mechanism for the submission of alternative rate calculations,
- (2) Identify exemptions from the system development charge,
- (3) Provide for appeals and review hearings,
- (4) Outline authorized and prohibited uses of system development charge revenues,
- (5) Provide for annual accounting reports, and

(6) Establish a procedure for challenging expenditures of system development charges revenues.

1.3 -- TITLE. This ordinance may be cited as the "Yamhill County Transportation System Development Charge Ordinance".

SECTION 2 RULES OF CONSTRUCTION AND DEFINITIONS

2.1 -- RULES OF CONSTRUCTION. For the purposes of administration and enforcement of this ordinance, unless otherwise stated in this ordinance, the following rules of construction shall apply:

(1) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.

(2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(3) Words used in the present tense shall include the future; words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; and use of the masculine gender shall include the feminine gender.

(4) The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."

(5) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as follows:

(a) "And" indicates that all the connected terms, conditions, provisions or events shall apply.

(b) "Or" indicates that the connected items, conditions, or provisions or events may apply singly or in any combination.

(c) "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(6) The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

2.2 -- DEFINITIONS. As used in this ordinance, the terms defined in this section shall have the defined meanings unless the context requires otherwise. The following definitions apply:

(1) "Applicant" shall mean the owner or other person who applies for a building permit within unincorporated Yamhill County.

- (2) "Building" shall mean any structure, either temporary or permanent, built for the support, shelter or enclosure of persons, chattels or property of any kind. This term shall include tents, trailers, mobile homes or any vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a building permit.
- (3) "Building Official" shall mean the person, or designee, certified by the State and designated as such to administer the State Building Codes for the County.
- (4) "Building Permit" shall mean that permit issued by the Building Official pursuant to the State of Oregon Structural Specialty Code Section 301 or as amended, and the State of Oregon One and Two Family Dwelling Code Section R-109 or as amended. For purposes of this Ordinance, the term "Building Permit" shall also include any construction, installation or placement permits which may be required for those structures or buildings, such as a mobile homes or manufactured homes, that do not require a building permit in order to be occupied.
- (5) "Capital Improvements" shall mean public facilities or assets used for transportation purposes.
- (6) "Citizen or Other Interested Person" shall mean any person who is a legal resident of the Yamhill County as evidenced by registration as a voter in the County, or by other proof of residency; or a person who owns, occupies, or otherwise has an interest in real property which is located within the County or is otherwise subject to the imposition of system development charges, as outlined in Section 3 of this ordinance.
- (7) "County" shall mean Yamhill County, Oregon.
- (8) "County Engineer" shall mean the appointed County Engineer of Yamhill County, Oregon.
- (9) "Credit" shall mean the amount of money by which the transportation SDC for a specific development may be reduced because of construction of eligible capital facilities as outlined in this ordinance.
- (10) "Development" shall mean a building or other land construction, or making a change in the use of a structure or land, in a manner which increases the usage of any capital improvements or which will contribute to the need for additional or enlarged capital improvements.
- (11) "Development Permit" shall mean an official document or certificate, other than a building permit, constituting a final land use decision from the Department of Planning and Development authorizing development.
- (12) "Dwelling Unit" shall mean a building or a portion of a building designed for residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters for one family only.

(13) "Encumbered" shall mean monies committed by contract or purchase order in a manner that obligates the County to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of real property provided by a vendor, supplier, contractor or Owner.

(14) "Improvement Fee" shall mean a fee for costs associated with capital improvements to be constructed after the effective date of this ordinance. Notwithstanding anything in this ordinance to the contrary, it is an incurred charge or cost based upon the use of or the availability for use of the systems and capital improvements required to provide services and facilities necessary to meet the routine obligations of the use and ownership of property, and to provide for the public health and safety upon development.

(15) "Mobile Home" shall include a manufactured home.

(16) "Owner" shall mean the person holding legal title to the real property upon which development is to occur.

(17) "Person" shall mean an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(18) "Qualified Public Improvement" shall mean a capital improvement that is:

- (a) Required as a condition of development approval;
- (b) Identified in the capital improvement plan adopted pursuant to Section 4.4; and
- (c) (i) Not located on or contiguous to property that is the subject of development approval, or
 - (ii) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

(19) "Reimbursement Fee" shall mean a fee for costs associated with capital improvements already constructed or under construction on the date of this resolution. Notwithstanding anything in this resolution to the contrary, it is an incurred charge or cost based upon the use of or the availability for use of the systems and capital improvements required to provide services and facilities necessary to meet the routine obligations of the use and ownership of property, and to provide for the public health and safety upon development.

(20) "System Development Charge" shall mean an improvement fee assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit or building permit. System development charges are separate from and in addition to any applicable tax, assessment, fee in lieu of assessment, or other fee or charge provided by law or imposed as a condition of development.

(21) "Yamhill County Transportation System Development Charge Methodology Report" shall mean the report adopted pursuant to Section 3.2, as amended and supplemented pursuant to Section 3.8.

SECTION 3 IMPOSITION OF SYSTEM DEVELOPMENT CHARGES

3.1 -- DEVELOPMENT SUBJECT TO CHARGES.

(1) In general. System development charges are imposed on all new development for which a building permit or mobile home placement permit or manufactured home placement permit is required within unincorporated Yamhill County. "New development" includes both new construction, placement of buildings or structures, and change in use, alteration, expansion or replacement of a structure or building if such change in use, alteration, expansion or replacement results in an increase in the number of trips generated compared to the present use of the development.

(2) Applicability of SDC for alterations, expansions and replacements. For alterations, expansions and replacements, the amount of the system development charge to be paid shall be the difference between the rate for the proposed development and the rate that would be imposed for the development prior to the alteration, expansion or replacement.

(3) SDC in addition to other fees. The transportation system development charges authorized by this ordinance shall be paid in addition to all other fees, charges and assessments due for development, and are intended to provide funds only for transportation capital improvements necessitated by new development or to reimburse the County for capital improvements used by new development.

3.2 -- RATES OF CHARGES. The amount of the Transportation System Development Charges (SDC's) shall be determined as identified in a transportation system development charge methodology report adopted by Board Order, which may be adopted or amended from time to time as deemed necessary or appropriate by the Board. Different rate structures may apply in different areas of the county, provided that the methodology report justifies a rate for the applicable area. The SDC rates shall be adjusted by Board Order each year on July 1, beginning July 1, 1999, to account for increases or decreases in costs according to the Portland Area Engineering News Record Cost Index (ENR) from the preceding period of January 1 through December 31. In addition, the SDC rates may be adjusted by Board Order based on an evaluation of the cost of constructing and/or acquisition of facilities, or the adoption of an updated methodology report.

3.3 -- PAYMENT OF CHARGES. Except as may be provided elsewhere in this ordinance, applicants for building permits or development permits within Yamhill County shall pay the applicable system development charges prior to the issuance of the permit.

3.4 -- ALTERNATIVE RATE CALCULATION. Applicants may submit alternative rates for system development charges, subject to the following conditions:

(1) In the event an applicant believes that the impact on County capital improvements resulting from a development is less than the fee established in Section 3.2, the applicant may submit alternative system development charge rate calculations, accompanied by the alternative rate review fee established by resolution for this purpose, to the Public Works Director.

(2) The alternative system development charge rate calculations shall be based on data, information and assumptions contained in this ordinance and the adopted system development charges methodology report, or an independent source, provided that the independent source is a local study that is:

- (a) Supported by a data base adequate for the conclusions contained in such study,
- (b) Performed pursuant to a generally accepted methodology, and
- (c) Based on generally accepted standard sources of information relating to facilities planning, cost analysis and demographics.

(3) If the Public Works Director determines that the data, information and assumptions utilized by the applicant to calculate the alternative system development charges rates comply with the requirements of this Section by using a generally accepted methodology, the alternative system development charges rates shall be paid in lieu of the rates set forth in Section 3.2.

(4) If the Public Works Director determines that the data, information and assumptions utilized by the applicant to calculate the alternative system development charges rates do not comply with the requirements of this Section or were not calculated by a generally accepted methodology, then the Public Works Director shall provide to the Applicant (by Certified mail, return receipt requested) written notification of the rejection of the alternative system development charges rates and the reason therefor. The decision of the Public Works Director shall be in writing and issued within ten (10) working days of the review.

(5) Any applicant who has submitted a proposed alternative system development charges rate pursuant to this Section and desires the immediate issuance of a building permit or development permit shall pay the applicable system development charges rates pursuant to section 3.2. Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any right of review. Any difference between the amount paid and the amount due, as determined by the Public Works Director, shall be refunded to the applicant.

3.5 -- EXEMPTIONS. The following development shall be exempt from payment of the transportation system development charges:

- (1) Alterations, expansion or replacement of an existing building where no additional trips are created.
- (2) The construction of accessory buildings or structures which will not create additional trips and which do not create additional demands on the County's transportation capital improvements.

(3) The issuance of a placement permit for a mobile home or manufactured home on which a transportation system development charge authorized by this Ordinance has previously been made as documented by receipts issued by the County for such prior payment.

(4) Development with vested rights, determined as follows:

(a) Any owner of land which was the subject of a building permit or development permit issued prior to the effective date of this ordinance may petition the County for a vested rights determination which would exempt the landowner from the provisions of this ordinance. Such petition shall be evaluated by the County Counsel and a decision made by the Board of County Commissioners based on an affirmative determination that the following criteria have been met:

(i) The existence of a valid, unexpired building permit or development permit issued by the County authorizing the specific development for which a determination is sought;

(ii) Substantial expenditures or obligations made or incurred in reliance upon the authorizing governmental act;

(iii) Other factors that demonstrate it is highly inequitable to deny the owner the opportunity to complete the previously approved development under the conditions of approval by requiring the owner to comply with the requirements of this ordinance. For the purposes of this paragraph, the following factors shall be considered in determining whether it is inequitable to deny the owner the opportunity to complete the previously approved development:

(A) Whether the injury suffered by the owner outweighs the public cost of allowing the development to go forward without payment of the system development charges required by this ordinance; and

(B) Whether the expenses or obligations for the development were made or incurred prior to the effective date of this Ordinance.

3.6 -- CREDITS. The County shall grant a credit against the system development charges imposed pursuant to Sections 3.1 and 3.2 for the donation or construction of qualified public improvements.

(1) A qualified public improvement is land or a capital facility which is:

(a) Required as a condition of development approval;

(b) Identified in the capital improvement plan adopted pursuant to Section 4.4; and

(c) (i) Not located on or contiguous to property that is the subject of development approval, or

(ii) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

(2) Prior to issuance of a building permit or development permit, the applicant shall submit to the Public Works Director a proposed plan and estimate of cost for contributions of qualified public improvements. The proposed plan and estimate shall include:

- (a) A designation of the development for which the proposed plan is being submitted;
- (b) A legal description of any land proposed to be donated and a written appraisal prepared in conformity with Section 3.6(C)(1);
- (c) A list of the contemplated capital improvements contained within the plan;
- (d) An estimate of proposed construction costs certified by a professional architect or engineer; and
- (e) A proposed time schedule for completion of the proposed plan.

(3) The credit provided for construction of a qualified public improvement shall be only for the cost of that portion of such improvement that exceeds the 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. The amount of credit to be applied shall be determined according to the following standards of valuation:

- (a) The value of donated lands shall be based upon a written appraisal of fair market value by a qualified and professional appraiser based upon comparable sales of similar property between unrelated parties in a bargaining transaction; and
- (b) The cost of anticipated construction of qualified public improvements shall be based upon cost estimates certified by a professional architect or engineer.

(4) If a donation or construction of a qualified public improvement gives rise to a credit amount greater than the amount of the transportation SDC that would otherwise be levied against the project receiving development approval, the excess credit may be applied against transportation SDC's that accrue in subsequent phases of the original development project. Any excess credit must be used not later than ten years from the date the credit is given.

(5) The decision of the Public Works Director as to whether to accept the proposed plan of contribution and the value of such contribution shall be in writing and issued within fifteen (15) working days of the review. A copy shall be provided to the applicant.

(6) Any applicant who submits a proposed plan pursuant to this Section and desires the immediate issuance of a building permit shall pay the applicable system development charges. Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any

review rights. Any difference between the amount paid and the amount due, as determined by the Public Works Director, shall be refunded to the applicant. In no event shall a refund by County under this subsection exceed the amount originally paid by the applicant.

3.7 -- APPEALS AND REVIEW HEARINGS.

(1) An applicant who is required to pay system development charges shall have the right to request a hearing to review the denial of any of the following:

- (a) An alternative rate calculation pursuant to Section 3.4.
- (b) A petition for vested rights pursuant to Section 3.5(4).
- (c) A proposed credit for contribution of qualified public improvements pursuant to Section 3.6.

(2) Such hearing shall be requested by the applicant within thirty (30) days of the date of first receipt of the denial. Failure to request a hearing within the time provided shall be deemed a waiver of such right.

(3) The request for hearing shall be filed with the Board of County Commissioners and shall contain the following:

- (a) The name and address of the applicant;
- (b) The legal description of the property in question;
- (c) If issued, the date the building permit or development permit was issued;
- (d) A brief description of the nature of the development being undertaken pursuant to the building permit or development permit;
- (e) If paid, the date the system development charges were paid; and
- (f) A statement of the reasons why the applicant is requesting the hearing.

(4) Upon receipt of such request, the County shall schedule a hearing before the Board of County Commissioners at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within forty-five (45) days of the date the request for hearing was filed.

(5) Such hearing before the Board of County Commissioners shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedures and evidence shall not be applicable; however, the hearing shall be conducted

in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.

(6) Any applicant who requests a hearing pursuant to this Section and desires the immediate issuance of a building permit shall pay prior to or at the time the request for hearing is filed the applicable system development charges pursuant to Section 3.2. Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any review rights.

(7) An applicant may request a hearing under this Section without paying the applicable system development charges, but no building permit or development permit shall be issued until such system development charges are paid in the amount initially calculated or the amount approved upon completion of the review provided in this Section.

3.8 -- BIENNIAL REVIEW. This ordinance and the Yamhill County Transportation System Development Charge Methodology Report shall be reviewed at least once every two years. The review shall consider new estimates of population and other socioeconomic data, changes in the cost of construction and land acquisition, and adjustments to the assumptions, conclusions or findings set forth in the report adopted by Section 3.2. The purpose of this review is to evaluate and revise, if necessary, the rates of the system development charges to assure that they do not exceed the reasonably anticipated costs of the County's capital improvements. In the event the review of the ordinance or the report alters or changes the assumptions, conclusions and findings of the report, or alters or changes the amount of system development charges, the report adopted by reference in Section 3.2 shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews and Section 3.2 shall be amended to adopt by reference such updated reports.

SECTION 4 RECEIPT AND EXPENDITURE OF SYSTEM DEVELOPMENT CHARGES

4.1 -- TRUST FUND.

(1) The County hereby establishes a separate fund to be designated as the "Road Capital Improvement Fund." The fund shall be maintained separate and apart from all other accounts of the County. The Road Improvement Capital Improvement Fund may be referred to as the "Trust Fund" or the "Trust Account" for transportation system development charges.

(2) All transportation system development charge payments shall be deposited into the Road Capital Improvement Fund immediately upon receipt.

(3) Section 3.2 authorizes different rates for transportation system development charges in different areas of the county, provided that a methodology report justifies different rates. If more than one area is adopted by the Board, sums deposited into the Road Capital Improvement fund shall be segregated into different accounts. Sums collected by the County for a transportation system development charge imposed within a specific area shall be deposited into a distinct fund account applicable to the specific area.

4.2 -- USE OF SYSTEM DEVELOPMENT CHARGES. The monies deposited into the Road Capital Improvement Fund shall be used solely for the purpose of providing capital improvements within the area in which the transportation system development charges were collected. Authorized expenditures include, but are not limited to:

- (1) Design and construction plan preparation;
- (2) Permitting and fees;
- (3) Land and materials acquisition, including any costs of acquisition or condemnation;
- (4) Construction of improvements and structures;
- (5) Design and construction of new drainage facilities required by the construction of capital improvements and structures;
- (6) Relocating utilities required by the construction of improvements and structures;
- (7) Landscaping;
- (8) Construction management and inspection;
- (9) Surveying, soils and material testing;
- (10) Acquisition of capital equipment;
- (11) Repayment of monies transferred or borrowed from any budgetary fund of the County which were used to fund any of the capital improvements as herein provided;
- (12) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the County to fund capital improvements;
- (13) Direct costs of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charges methodologies and providing an annual accounting of system development charges expenditures.
- (14) Administrative costs associated with collection of system development charge revenues.

4.3 -- PROHIBITED USES OF SYSTEM DEVELOPMENT CHARGES. Funds on deposit in system development charge trust accounts shall not be used for:

- (1) Any expenditure that would be classified as a routine maintenance or repair expense; or
- (2) Costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

4.4 -- AUTHORIZED CAPITAL IMPROVEMENTS: WHEN CAPITAL IMPROVEMENT PLANS REQUIRED: CONTENTS OF CAPITAL IMPROVEMENT PLANS.

(1) Should the Board adopt areas under authority of Section 3.2 which include territory within the McMinnville Urban Growth Boundary or territory within the Newberg Urban Growth Boundary, then the following rules apply:

(a) Any capital improvements in those areas which will be funded in whole or in part with transportation system development charges shall be included in a capital improvement plan adopted by Board Order.

(b) Any capital improvements outside those areas which will be funded in whole or in part with transportation system development charges need not be included on a capital improvement plan.

(2) If required by Section 4.4(1)(a), the capital improvement plan shall:

(a) List the specific capital improvement projects that may be funded with system development charge revenues;

(b) Provide the estimated cost of each capital improvement project; and

(c) Provide the estimated timing of each capital improvement project.

4.5 -- INVESTMENT OF TRUST ACCOUNT REVENUES. Any funds on deposit in system development charges trust accounts which are not immediately necessary for expenditure shall be invested by the County. All income derived from such investments shall be deposited in the system development charges trust accounts and used as provided herein.

4.6 -- REFUNDS OF SYSTEM DEVELOPMENT CHARGES. System development charges shall be refunded in accordance with the following requirements:

(1) An applicant or owner shall be eligible to apply for a refund if:

(a) The building permit or development permit has expired and the development authorized by such permit is not complete; or

(b) The system development charges have not been expended or encumbered prior to the end of the fiscal year immediately following the tenth anniversary of the date upon which such charges were paid. For the purposes of this Section, system development charges collected shall be deemed to be expended or encumbered on the basis of the first system development charges in shall be the first system development charges out.

(2) The application for refund shall be filed with the Public Works Director and contain the following:

- (a) The name and address of the applicant;
 - (b) The location of the property which was the subject of the system development charges;
 - (c) A notarized sworn statement that the petitioner is the then current owner of the property on behalf of which the system development charges were paid, including proof of ownership, such as a certified copy of the latest recorded deed;
 - (d) The date the system development charges were paid;
 - (e) A copy of the receipt of payment for the system development charges; and, if appropriate,
 - (f) The date the building permit or development permit was issued and the date of expiration.
 - (g) The application shall be filed within ninety (90) days of the expiration of the building permit or development permit or within ninety (90) days of the end of the fiscal year following the tenth anniversary of the date upon which the system development charges were paid. Failure to timely apply for a refund of the system development charges shall waive any right to a refund.
- (3) Within thirty (30) days from the date of receipt of a petition for refund, the County will advise the petitioner of the status of the request for refund, and if such request is valid, the system development charges shall be returned to the petitioner.
- (4) A building permit or development permit which is subsequently issued for a development on the same property which was the subject of a refund shall pay the systems development charges as required by Section 3 of this ordinance.

4.7 -- ANNUAL ACCOUNTING REPORT. The County shall prepare an annual report accounting for system development charges, including the total amount of system development charges revenue collected, and the capital improvement projects that were funded.

4.8 -- CHALLENGE OF EXPENDITURES. Any citizen or other interested person may challenge an expenditure of system development charges revenues.

- (1) Such challenge shall be submitted, in writing, to the Public Works Director for review within two years following the subject expenditure, and shall include the following information:
 - (a) The name and address of the citizen or other interested person challenging the expenditure;
 - (b) The amount of the expenditure, the project, payee or purpose, and the approximate date on which it was made; and

(c) The reason why the expenditure is being challenged.

(2) If the Public Works Director determines that the expenditure was not made in accordance with the provisions of this ordinance and other relevant laws, a reimbursement of system development charges trust account revenues from other revenue sources shall be made within one year following the determination that the expenditures were not appropriate.

(3) The Public Works Director shall make written notification of the results of the expenditure review to the citizen or other interested person who requested the review within ten (10) days of completion of the review.

SECTION 5 SEVERABILITY CLAUSE

All sections, subsections and paragraphs of this ordinance are severable. If any section, subsection or paragraph is ruled invalid for any reason by the court of last resort, the other portions of this ordinance shall be unaffected.

SECTION 6 EFFECTIVE DATE

The first reading of this ordinance was made July 30, 1998. The second reading was made August 13, 1998. In accordance with ORS 203.045(9), this ordinance shall become effective on November 16, 1998.

AYES:

NAYS:

DONE at McMinnville, Oregon on August 13, 1998.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STEVENSON
County Clerk
By: *Alison Royama*
Deputy ALISON ROYAMA

Ted Lopuszynski
Chairman TED LOPUSZYNSKI

Robert Johnstone
Commissioner ROBERT JOHNSTONE

FORM APPROVED BY:

John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

Thomas E. E. Bunn
Commissioner THOMAS E. E. BUNN