

TITLE III: ADMINISTRATION

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CHAPTER 30: CITY COUNCIL

Section

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§ 30.01 COUNCIL MEETINGS.

(A) The City Council shall meet the second and fourth Mondays of each month at the City Hall building located at 989 Broadway.

(B) The Council may at any regular or special meeting cancel one of the monthly meetings, and/or may change the location site. The Mayor, or Council President in the Mayor's absence, may cancel one of the monthly meetings in the event of lack of city business, or in case of an emergency.

(Ord. 89-26, passed 10-23-89; Am. Ord. 2003-07, passed 9-8-03)



CHAPTER 31: BOARDS, COMMISSIONS, AND COMMITTEES

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(2) One representative from the Seaside Downtown Development Association;

(3) One representative from the lodging businesses;

(4) One representative from the restaurant or catering industry; and

(5) One representative at large who resides within the Seaside City limits. It is suggested and recommended that all Committee members have experience in either advertising, marketing, promotions, hospitality or tourism.

TOURISM ADVISORY COMMITTEE

§ 31.001 ESTABLISHMENT.

A Tourism Advisory Committee is hereby established to advise the Tourism Director, City Manager and City Council concerning issues related to the marketing of the City. The Seaside Tourism Director and General Manager of the Seaside Civic and Convention Center shall be the staff liaisons to the Committee.

(Ord. 2007-16, passed 10-22-07)

(C) A vacancy shall occur from the resignation, inability to serve, removal, or death of any member. Resignation, when made, shall be addressed to and accepted by the Mayor. The City Council may remove a member for cause deemed sufficient by the City Council. Successors shall be appointed by the City Council for the unexpired term.

(D) The members shall serve without salary or compensation of any nature.

(Ord. 2007-16, passed 10-22-07)

§ 31.002 MEMBERSHIP.

The Seaside Tourism Advisory Committee shall be appointed by the City Council. Appointment shall be for a three-year term. Any portion of a term exceeding one-half the period of the term shall be considered a term.

(A) The Seaside Tourism Advisory Committee shall consist of five members, none of whom are employees of the City of Seaside. One must be a resident of Seaside while the remaining four shall be residents, or owners or employees of businesses within the Seaside City limits.

(B) Nominees shall be recommended to the Council for appointment and preference given to the following:

(1) One representative from the Seaside Chamber of Commerce;

§ 31.003 TERMS OF OFFICE.

The Tourism Advisory Committee's term of office shall commence on December 1 of the first year of his/her appointment. Original appointments shall be as follows: two appointees for three years; two appointees for two years; and one appointee for one year. Thereafter, appointments shall be for a three-year period or until an incumbent's successor is appointed and qualified. Any portion of a term exceeding one-half the period of the term shall be considered a full term.

(Ord. 2007-16, passed 10-22-07)

§ 31.004 APPOINTMENT OF OFFICERS.

(A) Each year, at the first meeting of the Committee, the members shall appoint one of their

members as Chairperson and one as Vice-Chairperson.

(B) One of the Committee members will serve as Secretary. Minutes of all meetings will be filed with the City Council.
(Ord. 2007-16, passed 10-22-07)

§ 31.005 MEETINGS AND REMOVAL OF MEMBERS.

(A) The Committee shall hold a regular meeting at least once each month of the calendar year. The Committee may at any regular or special meeting cancel one of the monthly meetings, and/or may change the location site. The Committee Chair, or Vice Chair in the Chair's absence, may cancel one of the monthly meetings in the event of lack of city business, or in case of an emergency. The meetings shall be open to the public.

(B) Any person appointed by the City Council to serve on this Committee who misses three or more regularly scheduled meetings during a calendar year shall be notified by letter that the position is vacated. The individual may appeal the decision to the City Council.
(Ord. 2007-16, passed 10-22-07)

§ 31.006 POWERS AND DUTIES.

The Tourism Advisory Committee shall advise the Tourism Director, City Manager, and City Council on all items relating to the marketing of Seaside including but not limited to:

(A) Advise the Tourism Director on the annual budget to be submitted to the City Budget Committee for consideration.

(B) Advise the Tourism Director on the Marketing Plan.

(C) Advise the Tourism Director regarding matters relating to the marketing of the city and Seaside's tourism-based economy.

(D) Advise the Tourism Director on staff directions from City Council concerning matters relating to the marketing of the City and the promotion of the tourism economy.
(Ord. 2007-16, passed 10-22-07)

§ 31.007 RULES AND PROCEDURES.

Except as otherwise established by the City Council, the Seaside Tourism Advisory Committee may adopt rules governing the conduct of its business.
(Ord. 2007-16, passed 10-22-07)



§ 31.008 GRIEVANCE PROCEDURE.

Questions and concerns by local business and citizens arising from the decisions and recommendations of the Promotions Committee will be first directed in writing to the City Manager. Upon receipt of the inquiry the City Manager will have five working days to respond in writing to the request. If the individual making the inquiry feels the question or concern is not resolved at this level, they can appeal this decision to the City Council within ten days from the date of the decision by the City Manager.
(Ord. 95-30, passed 7-10-95)

BUILDING BOARD OF APPEALS

§ 31.020 CREATED.

(A) As provided by Section 204 of the *State of Oregon Structural Specialty Code and Fire Life Safety Regulations*, there shall be and is hereby created a Building Board of Appeals consisting of five members who reside within the city limits and who are qualified by experience and training to pass upon matters pertaining to building construction.

(B) The Building Board of Appeals is established in order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of all city and state regulated building codes.
(Ord. 85-39, passed 10-14-85)

§ 31.021 APPOINTMENT OF MEMBERS.

The Building Board of Appeals shall be appointed by the City Council. Original appointments shall be as follows: one appointee for one year; two appointees for two years; and two appointees for three years. Thereafter, appointments shall be for a three-year period. The Mayor, with the approval of the Council, may remove a member for cause deemed sufficient by the City Council.
(Ord. 85-39, passed 10-14-85; Am. Ord. 95-45, passed 11-13-95)

§ 31.022 RULES AND REGULATIONS.

The Building Board of Appeals shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official and a copy to the appellant. The Building Official shall be an ex-officio member and shall act as secretary of the Board.
(Ord. 85-39, passed 10-14-85)

CIVIC AND CONVENTION CENTER COMMISSION

§ 31.035 CREATION.

A Civic and Convention Center Commission is hereby created as an advisory body to make recommendations to the City Council on matters concerning the Civic and Convention Center. The Commission shall make such recommendations concerning policy matters related to the Civic and Convention Center.
(Ord. 89-21, passed 10-23-89)

§ 31.036 MEMBERS.

The Civic and Convention Center Commission shall be appointed by the City Council. Appointment shall be for a four-year term. Any portion of a term exceeding one-half the period of the term shall be considered a term.

(A) The Civic and Convention Center Commission shall consist of members who are not employees of the city and shall be residents, or owners or employees of businesses within the city limits of Seaside.

(B) A vacancy shall occur from the death, resignation, or inability to serve of any member. Resignation, when made, shall be addressed to and accepted by the Mayor. The City Council may remove a member for cause deemed sufficient by the City Council. Successors shall be appointed by the City Council for the unexpired term.

(C) The members shall serve without salary or compensation of any nature.

(Ord. 89-21, passed 10-23-89; Am. Ord. 95-45, passed 11-13-95; Am. Ord. 95-50, passed 12-11-95; Am. Ord. 97-09, passed 4-28-97; Am. Ord. 99-14, passed 8-9-99)

§ 31.037 OFFICERS.

(A) At the first meeting of the Civic and Convention Center Commission after November 1 of each year the members shall appoint one of their regular members as Chairperson and one as Vice-Chairperson.

(B) The center manager shall serve as Secretary to the Civic and Convention Center Commission.
(Ord. 89-21, passed 10-23-89)

§ 31.038 MEETINGS; REMOVAL OF MEMBERS.

(A) The Civic and Convention Center Commission shall hold a regular meeting at least once each month of the calendar year.

(B) Any person appointed by the City Council to serve on this Commission who misses three or more regularly scheduled meetings during a 12-month period shall be notified by letter that the position must be vacated. The individual may appeal the decision; but if the absences are found not to have been for good cause, the position shall be vacated.

(C) Special meetings may be called at any time by the Chairperson, or Vice-Chairperson in the Chairperson's absence; and the Chairperson shall call a special meeting at the request of any three members. Minutes of each meeting shall be kept and sent to the City Council and city library.

(Ord. 89-21, passed 10-23-89)

§ 31.039 DUTIES OF COMMISSION.

The Civic and Convention Center Commission shall advise the convention center manager, City

Manager and City Council on all items relating to the operation of the Civic and Convention Center including but not limited to:

(A) Contracts;

(B) Building improvement;

(C) Employment of Civic and Convention Center Manager;

(D) Rentals; and

(E) Budget.

(Ord. 89-21, passed 10-23-89)

§ 31.040 ASSISTANCE OF CITY OFFICERS, BOARD OR COMMISSION MEMBERS.

The Commission may obtain the advice, recommendation, and assistance of any officer, board or commission of the city; and when called upon, the City Attorney and his staff shall render legal assistance and advice.

(Ord. 89-21, passed 10-23-89)

COMMUNITY CENTER AND SENIOR COMMISSION

§ 31.050 ESTABLISHMENT.

There is hereby established a Community Center and Senior Commission for the city.

(Ord. 95-22, passed 5-8-95)

§ 31.051 MEMBERSHIP.

The Community Center and Senior Commission shall consist of nine members who are not officials or employees of the city and who will be appointed by the City Council.

(A) (1) A minimum of five members shall reside within the city limits; a maximum of four members may reside within the urban growth boundary, but outside the city limits.

(2) If a member moves his/her principal residence outside the city limits or urban growth boundary during his/her term, the position shall be vacated.

(B) A vacancy shall occur upon the death, resignation, or inability to serve of any member. Resignations, when made, shall be addressed to and accepted by the Council. The Council may remove a member for a cause deemed sufficient by the City Council. Successors shall be appointed by the Council for the unexpired term.

(C) The members shall serve without salary or compensation of any nature.
(Ord. 95-22, passed 5-8-95)

§ 31.052 TERMS OF OFFICE.

A Community Center and Senior Commissioner's term of office shall commence on June 1 of the first year of his/her term. Original appointments shall be as follows: three appointees for one year; three appointees for two years; and three appointees for three years. Thereafter, appointments shall be for a three-year period or until an incumbent's successor is appointed and qualified. Any portion of a term exceeding one-half the period of the term shall be considered a full term.
(Ord. 95-22, passed 5-8-95; Am. Ord. 95-45, passed 11-13-95)

§ 31.053 OFFICERS.

(A) Each year, at the first meeting of the Commission, the members shall appoint one of their members as Chairperson and one as Vice-Chairperson.

(B) One member of the Commission will serve as secretary. Minutes of all meetings will be filed with the City Council.
(Ord. 95-22, passed 5-8-95)

§ 31.054 MEETINGS; REMOVAL OF MEMBERS.

(A) The Community Center and Senior Commission shall hold a regular meeting at least once each month of the calendar year.

(B) Any person appointed by the City Council to serve on this Commission who misses three or more regularly scheduled meetings during a 12-month period shall be notified by letter that the position must be vacated. The individual may appeal the decision; but if the absences are found not to have been for good cause, the position shall be vacated.
(Ord. 95-22, passed 5-8-95)

§ 31.055 POWERS AND DUTIES.

The Community Center and Senior Commission shall have the powers and duties which are now or may hereafter be assigned to it by Charter, ordinance, resolution or order of this city and in addition it will:

(A) Recommend and make suggestions to the Council concerning matters relating to the well being of the community center and seniors of the city.

(B) Receive directions from the Council concerning matters relating to the well being of the community center and seniors of the city.
(Ord. 95-22, passed 5-8-95)

§ 31.056 RULES OF PROCEDURE.

Except as otherwise established by the city, the Community Center and Senior Commission may adopt rules governing the conduct of its business.
(Ord. 95-22, passed 5-8-95)

**TRANSPORTATION
ADVISORY COMMISSION**

§ 31.060 CREATION.

A Transportation Advisory Commission is hereby created as an advisory body to make recommendations to the City Council on matters concerning transportation and proposed transportation projects. (Ord. 2011-06, passed 6-27-11)

§ 31.061 MEMBERSHIP.

(A) The Transportation Advisory Commission shall consist of five members who are not employees of the city and who will be appointed by the City Council. A minimum of four members shall reside within the city limits; and one member may live outside the city limits in order to represent concerns of neighboring properties and jurisdictions.

(B) A vacancy shall occur upon death, resignation, or inability to serve. Resignations, when made, shall be addressed in writing to and accepted by the Mayor. The Mayor, with approval of the Council, may remove a member for cause deemed sufficient by the City Council. Successors shall be appointed by the City Council for the unexpired term.

(C) Any person appointed by the City Council to serve on this Commission who misses three regularly scheduled meetings during a 12 month period, and can not provide adequate written cause to the Mayor, shall be notified by letter that the position must be vacated. The individual may appeal the decision to the City Council. (A 12-month period is defined as beginning in January of each year.)

(D) The members shall serve without salary or compensation of any nature. (Ord. 2011-06, passed 6-27-11; Am. Ord. 2012-05, passed 6-25-12)

§ 31.062 TERMS.

Appointment shall be for a four-year term. Any portion of a term exceeding one-half the period of the term shall be considered a full term. A Transportation Advisory Commissioner's term of office shall commence on the first day of September of the first year of his or her term, and shall be for four years, or until an incumbent's successor is appointed and qualified.

(Ord. 2011-06, passed 6-27-11)

§ 31.063 OFFICERS.

Each year, at the first Commission meeting in September, the members shall appoint one of their members as Chairperson and one as Vice-Chairperson. City staff shall serve as Secretary to the Transportation Advisory Commission. Minutes of all meetings will be filed with the City Council.

(Ord. 2011-06, passed 6-27-11)

§ 31.064 MEETINGS.

The Commission shall hold a regular meeting at least once each month of the calendar year. The meetings shall be open to the public and legally noticed.

(Ord. 2011-06, passed 6-27-11)

§ 31.065 DUTIES OF COMMISSION.

The Transportation Advisory Commission shall have the powers and duties which are now or may hereafter be assigned to it by Charter, ordinance, resolution or order of this city and in addition it will:

(A) Assist the City Council in recognizing community priorities by advising on transportation policies and goals;

(B) Increasing communications between the city, the public, the Oregon Department of Transportation (ODOT), the county, and all interested parties;

(C) Reduce misunderstandings concerning transportation planning, design, and construction;

(D) Review current transportation related ordinances and recommend amendments;

(E) Review proposed transportation projects planned for the city and make recommendations;

(F) Review the city Transportation Systems Plan every five years and report to the City Council; and

(G) Complete other projects, as they relate to transportation, as directed by the City Council.
(Ord. 2011-06, passed 6-27-11)

§ 31.066 ASSISTANCE OF CITY, COUNTY, AND STATE OFFICIALS.

The Commission may obtain the advice, recommendation, and assistance of any city official deemed necessary to provide quality assistance to the City Council. In addition, the Commission may seek professional advice from county and state transportation officials as deemed necessary.
(Ord. 2011-06, passed 6-27-11)

§ 31.067 RULES OF PROCEDURE.

Except as otherwise established by the city, the Transportation Advisory Commission may adopt rules governing conduct of its business.
(Ord. 2011-06, passed 6-27-11)

§ 31.068 POWERS.

The Transportation Advisory Commission is not a jurisdictional agency, has no fiscal powers, and in accordance with the City Charter, is not authorized to

review allegations and inquiries related to the actions of any member of a public agency.
(Ord. 2011-06, passed 6-27-11)

IMPROVEMENT COMMISSION

§ 31.080 ESTABLISHMENT; MEMBERSHIP AND MEETINGS.

The City Council hereby establishes a new commission to serve as the urban renewal agency of the city (new commission). Such new commission shall continue to be known as the Improvement Commission and shall be composed of 14 commissioners. The Mayor and members of the Council shall serve as commissioners and each of them shall appoint one resident of the city to serve as commissioners. The terms for the Mayor and Councilors shall be the same as the terms of their elective office, and for appointed members, the same as the elective terms of those officials appointing them. The appointments shall be filed with the City Auditor and all commissioners shall assume office upon their taking the oath or affirmation of office to be administered by the Auditor of the city as provided in Resolution No. 2913. The time and place of the first meeting of the Commission shall be determined by the Mayor. The City Auditor shall cause notice of the time and place of such meeting to be delivered or mailed to each commissioner no later than three days prior to the date set for such first meeting. The Commission shall elect a Chairperson, adopt by-laws, and determine the time and place for subsequent meetings of the Commission.
(Ord. 93-04, passed 4-12-93)

§ 31.081 TRANSFER OF AUTHORITY.

Pursuant to O.R.S. 457.055, the City Council hereby transfers the authority to exercise the powers of the urban renewal agency of the city from the Council as provided in Resolution No. 2912 and

Resolution No. 2913 to the Commission established by § 31.080, such transfer to become effective May 12, 1993. All duties and obligations of the urban renewal agency of the city shall thereafter be assumed by the Commission to which these powers are transferred. (Ord. 93-04, passed 4-12-93; Am. Ord. 95-26, passed 6-12-95)

PLANNING COMMISSION

§ 31.105 ESTABLISHMENT.

There is hereby established a City Planning Commission for the City of Seaside, Oregon. (Ord. 90-05, passed 3-26-90)

§ 31.106 MEMBERSHIP.

The Planning Commission shall consist of seven members who are not officials or employees of the city and who will be appointed by the Mayor, subject to the approval of the City Council.

(A) (1) A minimum of five members shall reside within the city limits; a maximum of two members may reside within the urban growth boundary, but outside the city limits.

(2) If a member moves his principal residence outside the city limits during his term, that position shall be vacated.

(B) A vacancy shall occur upon the death, resignation, or inability to serve of any member. Resignations, when made, shall be addressed to and accepted by the Mayor. The Mayor, with approval of the Council, may remove a member for cause deemed sufficient by the City Council. Successors shall be appointed by the Mayor, subject to Council approval, for the unexpired term.

(C) No more than two members shall be engaged in the same kind of occupation, business, trade or

profession. No more than two members of the Commission may engage principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, which engages principally in the buying, selling or developing of real estate for profit.

(D) The members shall serve without salary or compensation of any nature. (Ord. 90-05, passed 3-26-90)

§ 31.107 TERMS OF OFFICE.

Any portion of a term exceeding one-half the period of the term shall be considered a full term. A Planning Commissioner's term of office shall commence on the first day of November of the first

year of his or her term, and shall be for four years, or until an incumbent's successor is appointed and qualified.

(Ord. 90-05, passed 3-26-90; Am. Ord. 95-45, passed 11-13-95)

§ 31.108 POWERS AND DUTIES.

The Planning Commission shall have the powers and duties which are now or may hereafter be assigned to it by charter, ordinance, resolution or order of this city and in addition thereto it may:

(A) Recommend and make suggestions to the Council and to other public authorities concerning the laying out, widening, extending and locating of public thoroughfares, the parking of vehicles, the relief of traffic congestion, betterment of housing and sanitation conditions, and the establishment of districts for limiting the use, height, area, bulk and other characteristics of buildings and structures related to land development.

(B) Recommend to the Council and other public authorities plans for regulating the future growth, development and beautification of the city with respect to its public and private buildings and works, streets, parks, grounds and vacant lots, and plans consistent with future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service of public utilities, including appropriate public incentives for overall energy conservation, and plans for shipping and transportation facilities.

(C) Recommend to the Council and other public authorities plans for conservation, protection and development of resources.

(D) Do and perform all other acts and things necessary or proper to carry out the provisions of the city codes and ordinances.

(E) Study and propose such measures as are advisable for the promotion of the public interest, health, morals, safety, comfort, convenience and welfare of the city and its urban growth boundary.

(Ord. 90-05, passed 3-26-90)

§ 31.109 RULES OF PROCEDURE.

Except as otherwise established by the city, the Planning Commission may adopt rules governing the conduct of its business.

(Ord. 90-05, passed 3-26-90)

SEASIDE PUBLIC AIRPORT COMMITTEE

§ 31.170 ESTABLISHMENT.

There is hereby established a Seaside Public Airport Committee for the city. The Committee shall act as an advisory body to the City Council, the City Manager, and the Public Works Director/City Engineer regarding issues concerning the Seaside Public Airport.

(Ord. 2003-02, passed 3-24-03)

§ 31.171 MEMBERSHIP.

(A) The Committee shall consist of the following permanent members: the Public Works Director/City Engineer (or designee), a member of the Seaside City Council, a member of the Gearhart City Council, and six non-permanent citizen members, who are not employees of the city, and at least four of the non-permanent citizens shall reside within the city limits who shall serve as members-at-large.

(B) The citizen members of the Committee shall be selected from, but are not limited to, members of the following groups: persons with a demonstrated interest in public airport, educators, private

businesspersons, persons with a diversity of ethnic and cultural affiliations, and persons of diverse economic backgrounds and interests.

(C) The members shall serve without salary or compensation of any nature.

(Ord. 2003-02, passed 3-24-03; Am. Ord. 2009-04, passed 7-13-09)

§ 31.172 TERMS OF OFFICE.

All members shall be appointed by the City Council and shall serve for a term of three years. However, three of the first non-permanent members shall be appointed for a term of one year, two years, and three years respectively. As those terms expire, the vacancy will be filled for three-year terms in each case.

(Ord. 2003-02, passed 3-24-03)

§ 31.173 APPOINTMENT OF OFFICERS.

(A) Each year, at the first Committee meeting in January, the members shall appoint one of their members as Chairperson and one as Vice-Chairperson.

(B) One of the Committee members will serve as Secretary. Minutes of all meetings will be filed with the City Council.

(Ord. 2003-02, passed 3-24-03)

§ 31.174 MEETINGS AND REMOVAL OF MEMBERS.

(A) The Committee shall hold a regular meeting at least once each month of the calendar year. The meetings shall be open to the public.

(B) A vacancy shall occur from the death, resignation, or inability to serve of any member. Resignation, when made, shall be addressed to and

accepted by the Mayor. The City Council may remove a member for cause deemed sufficient by the City Council. Successors shall be appointed by the City Council for the unexpired term.

(C) Any person appointed by the City Council to serve on this Committee who misses three or more regularly scheduled meetings during a 12-month period shall be notified by letter that the position must be vacated. The individual may appeal the decision to the City Council. (A 12-month period is defined as beginning in January of each calendar year.)

(Ord. 2003-02, passed 3-24-03)

§ 31.175 DUTIES.

(A) In general, the Seaside Public Airport Committee exists for the purpose of:

(1) Assisting the City Council in recognizing community priorities by advising it on airport resource issues;

(2) Increasing communication between the public, FAA, Oregon Department of Aviation, and all interested parties;

(3) Identifying pertinent issues regarding the delivery of airport services to the members of the community and its guests;

(4) Reduce misunderstanding regarding the nature of the delivery of those services;

(5) Provide a forum for input on airport issues.

(B) To accomplish these duties set forth in division (A) above, the Seaside Public Airport Committee may:

(1) Review and make recommendations on Seaside Public Airport policies, practices, and priorities to meet community expectations;

(2) Provide input and recommendations on resource needs and service expectations from the Seaside Public Airport;

(3) Provide a public forum for addressing community concerns related to Seaside Public Airport practices and policies;

(4) Complete other projects, as they are related to the airport, as directed by the City Council;

(5) Research and recommend short and long range goals.
(Ord. 2003-02, passed 3-24-03)

§ 31.176 POWERS.

The Seaside Public Airport Committee is not a jurisdictional agency, and in accordance with the City Charter, is not authorized to review allegations and inquiries related to the actions of any member of a public agency.
(Ord. 2003-02, passed 3-24-03)

SEASIDE PARKS ADVISORY COMMITTEE

§ 31.180 ESTABLISHMENT.

There is hereby established a Seaside Parks Advisory Committee for the city. The Committee shall act as an advisory body to the City Council, the City Manager, and the Public Works Director regarding issues concerning Seaside Parks.
(Ord. 2004-08, passed 11-8-04)

§ 31.181 MEMBERSHIP.

(A) The Seaside Parks Advisory Committee shall consist of seven members who are not officials or employees of the city and who will be appointed by the City Council.

(B) A minimum of six members shall reside within the city limits, and a maximum of one member may reside within the urban growth boundary. No more than two members shall be engaged in the same kind of occupation, business, trade or profession. The Mayor shall appoint one member of the City Council as Council liaison, and the City Manager, or his or her designee, shall be the staff liaison to the Committee.

(C) If a member moves his/her principal residence outside the city limits or urban growth boundary during his/her term, the position shall be vacated.

(D) The members shall serve without salary or compensation of any nature.
(Ord. 2004-08, passed 11-8-04)

§ 31.182 TERMS OF OFFICE.

Appointment shall be for a three-year term; however, the initial terms will be: two members shall be appointed for a term of one year, two members for two years, and three members for three years. As those terms expire, all vacancies will be filled for three-year terms.
(Ord. 2004-08, passed 11-8-04)

§ 31.183 APPOINTMENT OF OFFICERS.

(A) Each year, at the first Committee meeting in January, the members shall appoint one of their members as Chairperson and one as Vice-Chairperson.

(B) One of the Committee members will serve as Secretary. Minutes of all meeting will be filed with the City Council.
(Ord. 2004-08, passed 11-8-04)

§ 31.184 MEETINGS AND REMOVAL OF MEMBERS.

(A) The Committee shall hold a regular meeting at least once each month of the calendar year. The meetings shall be open to the public.

(B) A vacancy shall occur from the death, resignation, or the inability of any member to serve. Resignation, when made, shall be addressed to and accepted by the Mayor. The City Council may remove a member for cause deemed sufficient by the City Council. Successors shall be appointed by the City Council for the unexpired term.

(C) Any person appointed by the City Council to serve on this Committee who misses three or more regularly scheduled meetings during a 12-month period shall be notified by letter that the position must be vacated. The individual may appeal the decision to the City Council. (A 12-month period is defined as beginning in January of each year.)
(Ord. 2004-08, passed 11-8-04)

§ 31.185 PURPOSE AND SCOPE.

In general, the Seaside Parks Advisory Committee shall provide recommendations and receive direction from the City Council regarding the development, operation, and maintenance of the park system working within the guidelines and boundaries of the Seaside Parks Master Plan. Duties may include but are not limited to:

(A) Identifying partnerships for the development and maintenance of the park system;

(B) Seeking resources for long-term funding for the parks system;

(C) Coordinating parks planning among the city, State Parks and Recreation Department, North Coast Land Conservancy, Sunset Empire Parks and Recreation District and Administrative School District 10;

(D) Coordinating public outreach projects that keep the community involved and the committee informed;

(E) Monitoring park use; and

(F) Reviewing and assuring that city park ordinances comply with the park system goals.
(Ord. 2004-08, passed 11-8-04)

§ 31.186 POWERS.

(A) The Seaside Parks Advisory Committee is not a jurisdictional agency, has no fiscal powers, and in accordance with the City Charter, is not authorized to review allegations and inquiries related to the actions of any member of a public agency.

(B) Members shall serve without salary or compensation of any nature.
(Ord. 2004-08, passed 11-8-04)

CHAPTER 32: TAXATION AND FINANCE

Section

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TRANSIENT ROOM TAX**§ 32.01 DEFINITIONS.**

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

ACCRUAL ACCOUNTING. 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. The operator does not enter the rent due from a transient on his records until rent is paid.

CITY COUNCIL. The City Council of the City of Seaside, Oregon.

HOTEL. Any structure, or any portion of any structure, which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging or sleeping purposes; and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club; and also means space in mobile home or trailer parks, or similar structures or spaces or portions thereof so occupied; provided such occupancy is for less than a 30-day period.

OCCUPANCY. 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. The person who is the 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 subchapter and shall have the same duties and liabilities as his principal.

Compliance with the provision of this subchapter by either the principal or the managing agent shall be considered to be compliance by both.

PERSON. 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. 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 value in money, without any deduction.

RENT PACKAGE PLAN.

(1) 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 subchapter shall be the same charge made for rent, when consideration is not a part of a package plan.

(2) The amount applicable to rent for determination of transient room tax under this ordinance shall be that amount allocated to space rent, taking into consideration a reasonable value of other items in the rent package, and taking into consideration the charge for rent when the space is rented separately and not included in a package plan.

TAX ADMINISTRATOR. The City Manager.

TAX. 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 LODGINGS TAX REVIEW COMMITTEE. A committee composed of an attorney, an operator, and three laypersons appointed by the Mayor and approved by the Council.

TRANSIENT. Any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 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 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 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 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 this subchapter 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. 73-41, passed 9-10-73)

§ 32.02 TAX IMPOSED.

For the privilege of occupancy in any hotel, each transient shall pay a tax in the amount of 8% 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 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 furnishings of rooms, accommodations, and space occupancy in mobile home parks or trailer parks.

(Ord. 73-41, passed 9-10-73; Am. Ord. 80-7, passed 5-19-80; Am. Ord. 87-12, passed 5-27-87; Am. Ord. 2002-07, passed 6-25-02)

§ 32.03 COLLECTION OF TAX BY OPERATOR; RULES FOR COLLECTION.

(A) Every operator renting rooms or space for lodging or sleeping purposes in this city, the occupancy of which is not exempted under the terms of this subchapter, 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 uncollectibles.

(C) The Tax Administrator shall enforce provisions of this subchapter and shall have the power to adopt rules and regulations not inconsistent with this subchapter, as may be necessary to aid in the enforcement.

(D) For rent collected on portions of a dollar, fractions of a penny tax shall not be remitted.
(Ord. 73-41, passed 9-10-73)

§ 32.04 OPERATOR'S DUTIES.

Each operator shall collect the tax imposed by this subchapter 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 subchapter.

(Ord. 73-41, passed 9-10-73)

§ 32.05 EXEMPTIONS.

No tax imposed under this subchapter shall be imposed upon:

(A) Any occupant for more than 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 \$2 per day.

(C) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for the aged people, or to a public institution owned and operated by a unit of government.

(Ord. 73-41, passed 9-10-73; Am. Ord. 82-8, passed 4-26-82; Am. Ord. 92-07, passed 2-10-92)

§ 32.06 REGISTRATION OF OPERATOR.

(A) Every person engaging in or about to engage in business as an operator of a hotel in this city shall register with the Tax Administrator on a form provided by him. Operators starting business after this subchapter is adopted must register within 15 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 sets forth the name under which the 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 Tax Administrator may require. The registration shall be signed by the operator. The Tax Administrator 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 non-transferable, and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable, and shall be prominently displayed therein, so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

(B) The certificate shall, among other things, state the following:

- (1) The name of the operator.
- (2) The address of the hotel.
- (3) The date upon which the certificate was issued.

(4) "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 by registration with the Tax Administrator for the purpose of collecting from transients the lodgings tax imposed by the city and remitting the tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the city. This certificate does not constitute a permit."

(Ord. 73-41, passed 9-10-73)

§ 32.07 DUE DATE; RETURNS AND PAYMENTS.

(A) The tax imposed by this subchapter 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 Tax Administrator on a quarterly basis on the fifteenth day of the following month for the preceding three

months, and are delinquent on the 20th day of the month in which they are due. The Tax Administrator has authority to classify and/or district 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 subchapter 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 Tax Administrator. The return shall be filed in such form as the Tax Administrator may prescribe by every operator liable for payment of tax.

(C) Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, 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 Tax Administrator at his office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(E) For good cause, the Tax Administrator may extend for not to exceed one month from the due date the time for making any return or payment of tax. No further extension shall be granted, except by the transient lodgings tax committee. Any operator to whom an extension is granted shall pay interest at the rate of 1% 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 subchapter.

(F) The Tax Administrator, 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. 73-41, passed 9-10-73; Am. Ord. 2002-07, passed 6-25-02)

§ 32.08 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 subchapter prior to delinquency, shall pay 10% 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 30 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of 15% of the amount of the tax due plus the amount of the tax and the 10% penalty first imposed.

(C) *Fraud.* If the Tax Administrator determines that the nonpayment of any remittance due under this subchapter is due to fraud or intent to evade the provisions thereof, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in divisions (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 subchapter shall pay interest at the rate of 1% 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.

(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 Transient Lodgings Tax Review Committee for waiver and refund of the penalty or any portion thereof; and the

Transient Lodgings Tax Review Committee may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof. (Ord. 73-41, passed 9-10-73)

§ 32.09 DEFICIENCY DETERMINATION; EVASION; OPERATOR DELAY.

(A) *Deficiency determinations.* If the Tax Administrator 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 § 32.08.

(1) In making a determination, the Tax Administrator 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 § 32.08.

(2) (a) The Tax Administrator shall give to the operator or occupant a written notice of his determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his address as it appears on the records of the Tax Administrator.

(b) In case of service by mail of any notice required by this subchapter, it shall be served by mailing such notice by registered mail, postage prepaid, return receipt requested.

(3) Except in the case of fraud or intent to evade this subchapter 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 20 days after the Tax Administrator 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 the tax, or to make within the time provided in this subchapter any report or remittance of the tax or any portion thereof required by this subchapter, or makes a fraudulent return, or otherwise wilfully attempts to evade this subchapter, the Tax Administrator shall proceed in such manner as he may deem best to obtain the facts and information of which to base an estimate of the tax due. As soon as the Tax Administrator had determined the tax due that is imposed by this subchapter from any operator who has filed or refused to collect the same and to report and remit the tax, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this subchapter. In case such determination is made, the Tax Administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery by the Tax Administrator of any fraud, intent to evade or failure or refusal to collect the tax, or failure to file return. Any determination shall become due and payable upon receipt of notice, and shall become final within 20 days after the Tax Administrator has given notice thereof; provided, however, the operator may petition for redemption refund if the petition is filed before the determination becomes final, as herein provided.

(C) *Operator delay.* If the Tax Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the city will be jeopardized by delay, or if any determination will be jeopardized by delay, he 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 Tax Administrator 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 within 20 days from the date of service of notice by the Tax Administrator.

(Ord. 73-41, passed 9-10-73)

§ 32.10 REDETERMINATIONS.

(A) Any person against whom a determination is made under § 32.09, or any person directly interested, may petition for a redetermination and redemption and refund within the time required in § 32.09. If a petition for redetermination and refund is not filed within the time required in § 32.09, 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 Tax Administrator 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 20 days' notice of time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.

(C) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing; and if an increase is determined, such increase shall be payable immediately after the hearing.

(D) The order or decision of the Tax Administrator upon a petition for redetermination of redemption and refund becomes final 20 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the transient lodgings tax review committee within the 20 days after the 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. 73-41, passed 9-10-73)

§ 32.11 SECURITY FOR COLLECTION OF TAX.

(A) The Tax Administrator, whenever he deems it necessary to insure the compliance with this subchapter, may require the operator subject thereto to deposit with him such security in the form of cash, bond or other security as the Tax Administrator may determine. The amount of the security shall be fixed by the Tax Administrator, but shall not be greater than twice the operator's estimated average quarterly liability as the Tax Administrator deems proper, or \$5,000, whichever amount is lesser. The amount of security may be increased or decreased by the Tax Administrator, subject to limitations herein provided. The operator has a right to appeal to the Transient Lodgings Tax Review Committee any decision of the Tax Administrator made pursuant to this section. The operator's right to appeal is pursuant to § 32.17 herein.

(B) At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three years after any determination becomes final, the Tax Administrator may bring any 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. 73-41, passed 9-10-73)

§ 32.12 LIEN.

The tax imposed by this subchapter, together with the interest and penalties herein provided and the filing fees paid to the County Clerk, and advertising costs which may be incurred when same becomes delinquent, as set forth in this subchapter, shall be and, until paid, remain a lien from the date of its recording with the County Clerk, and superior to all subsequent recorded liens on all tangible personal property used in the hotel of an operator within the city; and may be foreclosed on and sold as may be necessary to discharge the lien, if the lien has been recorded with the County Clerk. Notice of the lien may be issued by the Tax Administrator or his deputy,

whenever the operator is in default in the payment of the tax interest and penalty, and shall be recorded with the County Clerk, and a copy sent to the delinquent operator. The personal property subject to such lien seized by any deputy or employee of the Tax Administrator may be sold by the Department seizing same at public auction, after ten days' notice; which means one publication in a newspaper published in the city. Any lien for taxes shown on the records of the proper county official shall, upon payment of all taxes, penalties and interest thereon, be released by the Tax Administrator when the full amount determined to be due has been paid to the city; and the operator or person making such payment shall have a receipt therefor, stating that the full amount of taxes, penalties and interest thereon have been paid, and that the lien is hereby released and the record of lien is satisfied.

(Ord. 73-41, passed 9-10-73)

§ 32.13 REFUNDS.

(A) *Refunds by the city to the 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 Tax Administrator under this subchapter, 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 Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded, or may be credited on any amount 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 assignees.

(B) *Refunds by city to transient.* Whenever the tax required by this subchapter has been collected by an operator and deposited by the operator with the Tax Administrator, and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax

Administrator to the transient; provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the Tax Administrator within three years from the date of payment.

(C) *Refunds by operator to tenant.* Whenever the tax required by this subchapter has been collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 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 Tax Administrator. If the operator has remitted the tax prior to the refund or credit to the tenant, he shall be entitled to a corresponding refund under this section. (Ord. 73-41, passed 9-10-73)

§ 32.14 COLLECTION FEE.

Every operator liable for collection and remittance of the tax imposed by this subchapter may withhold 5% of the net tax herein collected to cover the operator's expense in collection and remittance of the tax.

(Ord. 73-41, passed 9-10-73)

§ 32.15 ADMINISTRATION.

(A) The Tax Administrator shall distribute the transient room tax collected in the priority and for the purposes as follows:

(1) Maintaining, upgrading and expansion of the Convention Center building, properties and equipment shall be a priority second only to debt requirements.

(2) Subject to division (1) above, the Tax Administrator shall deposit the transient room tax collected from vacation rentals in the general fund. The remaining revenue shall be allocated as follows:

(a) Twenty and one-tenth percent will be allocated to promote and advertise the city through the City Tourism Advisory Committee, and to operate the Seaside Visitors Bureau as designated by the City Council;

(b) Eighteen and nine-tenths percent will be allocated to the Public Safety Fund for the general operation of the Police, Fire, Municipal Court and Lifeguards (1% is dedicated to the Lifeguard Program);

(c) Forty-six percent will be allocated to the Convention Center Fund, first for payment of outstanding debt issues, second for maintaining, upgrading and expansion of the Convention Center building, properties and equipment, and the remainder, if any, to the Convention Center Fund for the general operation of the Seaside Convention Center;

(d) Five and one-tenth percent will be allocated to the Convention Center Capital Improvement Fund for the maintenance, upgrading and expansion of the Convention Center building, properties and equipment;

(e) Two and nine-tenths percent will be allocated to the Capital Improvement & Maintenance Fund (expenditures will be made with City Council approval);

(f) Three and one-tenth percent will be allocated to the Public Works Fund to be used for the maintenance and operation of tourist related facilities;

(g) Two and four-tenths percent will be allocated to a Prom Improvement Fund to be used for the maintenance, reconstruction or expansion of the Prom system;

(h) One and five-tenths percent will be allocated to the Emergency Readiness Fund to be used for emergency preparedness education and supplies for the general population (both full time and seasonal).

(B) *Records required from operators, and the like.* 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.

(C) *Examination of records; investigations.* The Tax Administrator, 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.

(D) *Confidential character of information obtained; disclosure unlawful.* It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this subchapter to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a transient occupancy registration certificate or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty; or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application; or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person; provided, that nothing in this subsection shall be construed to prevent:

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

(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 Tax Administrator may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby.

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

(4) The disclosure of general statistics regarding taxes collected or business done in the city. (Ord. 73-41, passed 9-10-73; Am. Ord. 92-07, passed 2-10-92; Am. Ord. 95-35, passed 8-28-95; Am. Ord. 97-22, passed 11-10-97; Am. Ord. 99-13, passed 7-12-99; Am. Ord. 2001-06, passed 7-9-01; Am. Ord. 2002-07, passed 6-25-02; Am. Ord. 2009-03, passed 6-22-09; Am. Ord. 2012-01, passed 2-13-12)

§ 32.16 TRANSIENT LODGINGS TAX REVIEW COMMITTEE.

(A) A Transient Lodgings Tax Review Committee is hereby authorized to be composed of an attorney, who may be a city employee, an operator, as herein defined, and three lay members. The Committee shall select from its members a Chairperson, who shall serve at its pleasure. Three members of the Committee shall constitute a quorum. The Committee shall keep a record of its transactions. The Committee shall be deemed to be in the office of the Tax Administrator, and shall meet and keep its files in his office. The members of the Committee shall not, at any time, receive any compensation as such members or acting members for their services on the Committee. The Committee shall be appointed by the City Council and shall serve four-year terms.

(B) The Committee shall have power, and it shall be its duty:

(1) To hear and determine appeals of orders or decisions of the Tax Administrator made upon petitions for redetermination of tax. The Committee 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 Tax Administrator's decision or order, the Committee may take such evidence and make such investigation as it may deem necessary. It shall give notice of a Tax Administrator's decision, and shall file a copy of each such determination with the Tax Administrator with certification thereon of the date of service thereof. Such determination shall become final 20 days thereafter, and shall thereupon become due and payable subject to interest penalties, and enforceable by the Tax Administrator in like manner as an order or decision of the Tax Administrator.

(2) To approve, modify or disapprove all forms, rules and regulations prescribed by the Tax Administrator in the administration and enforcement of this subchapter; and such forms, rules and regulations adopted or promulgated after November 1, 1973, shall be subject to and become effective only on such approval.

(3) 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 approved or prescribed by the Committee.

(4) 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.

(5) To make such investigations as it deems advisable regarding the imposition and administration of the transient lodgings tax, and report its findings to the City Council; to act in an advisory capacity to the legislative body on matters pertaining to the transient lodgings tax and enforcement problems, and to recommend to the council the adoption, amendment or repeal of legislation pertaining thereto.

(Ord. 73-41, passed 9-10-73; Am. Ord. 93-19, passed 6-14-93)

§ 32.17 TRANSIENT ROOM TAX ORDINANCE REVIEW COMMITTEE.

(A) An ad hoc committee may be appointed by the City Council from time to time to review the room tax ordinance for adequacy, applicability, appropriateness, and fairness. The Committee will be commissioned anew for each review and membership composed as follows:

- 1 City Councilor
- 1 City Finance Officer
- 1 Chamber of Commerce Representative
- 1 Convention Center Commission Representative
- 1 Hotel/motel representative
- 1 Representative selected from bed and breakfast and vacation rental groups
- 2 Representatives selected from RV parks, retail merchants, and restaurant groups

(B) Nomination for membership will be made by the groups represented with the City Council making the appointments.

(C) All deliberations of the committee will be held under the open meetings statutes of the state. (Ord. 93-19, passed 6-14-93)

§ 32.18 APPEALS.

(A) Any person aggrieved by any decision of the Tax Administrator may appeal to the Transient Lodgings Tax Review Committee by filing notice of appeal with the Tax Administrator within 20 days of the serving or mailing of the notice of a decision given by the Tax Administrator. The Tax Administrator shall fix a time and place for hearing such appeal, as prescribed by the Transient Lodgings Tax Review Committee in its rules and regulations, and shall give the appellant 20 days' written notice of the time and place of hearing.

(B) Any person aggrieved by any decision of the Transient Lodgings Tax Review Committee may appeal to the City Council by filing notice of appeal with the Tax Administrator within 20 days of the serving or the mailing of the notice of the decision given by the Transient Lodgings Tax Review Committee. The Tax Administrator shall transmit the notice of appeal together with the file of the appealed matter to the Council, who shall fix a time and place for hearing such appeal from the decision of the Transient Lodgings Tax Review Committee. The Council shall give the appellant not less than 20 days' written notice of the time and place of hearing of the appealed matter. Action by the Council on appeals shall be decided by a majority of the members of the Council present at the meeting where such appeal is considered.

(Ord. 73-41, passed 9-10-73; Am. Ord. 93-19, passed 6-14-93)

§ 32.19 VIOLATIONS.

It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this subchapter.

(Ord. 73-41, passed 9-10-73; Am. Ord. 93-19, passed 6-14-93)

PUBLIC CONTRACTS

§ 32.30 DEFINITIONS.

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

BOARD. The local contract review board as established in § 32.31.

PUBLIC CONTRACT. Any purchase, lease, or sale by the City Council of personal property, public improvements, or service other than agreements which are exclusively for personal service.

PUBLIC IMPROVEMENT. Any construction of improvements on real property by or for the City Council.

(Ord. 76-22, passed 6-15-76)

§ 32.31 CONTRACT REVIEW BOARD.

The City Council is hereby designated as the local contract review board and relative to contract concerns of this city shall have all the powers granted to the State Public Contract Review Board.

(Ord. 76-22, passed 6-15-76)

§ 32.32 BIDS REQUIRED.

All public contracts shall be based upon competitive bids, except as specified herein.

(Ord. 76-22, passed 6-15-76)

§ 32.33 EXEMPTIONS.

(A) All contracts shall be based on competitive bids except:

(1) Contracts made with, or the cost of which is provided by, other public agencies or the federal government.

(2) Contracts for any purchase the amount of which is less than \$2500.

(3) Informal bids may be secured provided the City Council authorizes such informal bids when the purchase exceeds \$2500. An informal bid shall be considered to be the procedure whereby the purchasing agent of the city ascertains by correspondence, telephone, or direct contact, the various prices for the items involved, quoted by a number of reliable firms that shall have such items for sale. The purchasing agent shall cause to be kept, all records and evidence of such informal bids, and after obtaining the same the purchase may be made by the City Manager or his designated agent with approval of the City Council.

(4) Contracts for any item which is available only through one company, firm, or individual.

(B) Products shall not be specified nor be purchased by brand name or make unless under (A)(1), (2), or (3) above, there is evidence regarding one source, or substantial savings to the public would result, or efficient utilization of existing supplies requires the acquisition of compatible equipment or supplies.

(C) The Board may exempt other contracts from competitive bidding if it finds:

(1) The lack of bids will not result in favoritism or substantially diminish competition in awarding the contract; and

(2) The exemption will result in substantial cost savings.

(D) In making such findings, the Board may consider the type, cost, amount of the contract, number of persons available to bid, and such other factors as the Board may deem appropriate.

(Ord. 76-22, passed 6-15-76; Am. Ord. 90-03, passed 2-26-90)

§ 32.34 EMERGENCY CONTRACTS.

A contract may also be exempt from competitive bidding if the City Manager determines that emergency conditions require prompt execution of the contract. An explanation of such emergency shall be entered into the record of the next regular meeting subsequent to the execution of the contract.
(Ord. 76-22, passed 6-15-76)

SYSTEM DEVELOPMENT CHARGES

§ 32.45 PURPOSE.

The purpose of the system development charge (SDC) is to impose an equitable share of the public costs of capital improvements for water, wastewater drainage, streets, flood control, and parks upon those developments that create the need for or increase the demands on capital improvements.
(Ord. 94-29, passed 11-14-94)

§ 32.46 SCOPE.

The system development charge imposed by this subchapter is separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, or fee otherwise provided by law or imposed as a condition of development.
(Ord. 94-29, passed 11-14-94)

§ 32.47 DEFINITIONS.

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

CAPITAL IMPROVEMENT(S). Facilities or assets used for:

(1) Water supply, treatment and distribution;

(2) Sanitary sewers, including collection, transmission and treatment;

(3) Storm sewers, including drainage and flood control;

(4) Parks and recreation, including but not limited to mini-neighborhood parks, neighborhood parks, community parks, public open space and trail systems, buildings, courts, fields and other like facilities.

(5) Transportation infrastructures, including streets, curbs, gutters, sidewalks, bridges, bike paths, walkways and bus shelters.

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

IMPROVEMENT FEE. A fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to § 32.48.

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

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

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

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

QUALIFIED PUBLIC IMPROVEMENTS. A capital improvement that is:

- (1) Required as a condition of residential development approval;
- (2) Identified in the plan adopted pursuant to § 32.52;
- (3) Not located on or contiguous to a parcel of land that is the subject of the residential development approval; or
- (4) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

REIMBURSEMENT FEE. A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to § 32.48.

SYSTEM DEVELOPMENT CHARGES. A reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. **SYSTEM DEVELOPMENT CHARGE** includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections with water and sewer facilities. **SYSTEM DEVELOPMENT CHARGE** does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision.
(Ord. 94-29, passed 11-14-94)

§ 32.48 CHARGES ESTABLISHED.

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

(B) Unless otherwise exempted by the provisions of this subchapter or other local or state law, system development charge is hereby imposed upon all development within the city, upon the act of making a connection to the city water or sewer system within the city, and upon all development outside the boundary of the city that connects to or otherwise uses the sewer facilities, storm sewers, or water facilities of the city.

(Ord. 94-29, passed 11-14-94)

§ 32.49 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 publicly owned capital improvements, and other relevant factors identified by the City Manager. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.

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

(C) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be contained in an ordinance adopted by the Council.

(Ord. 94-29, passed 11-14-94)

§ 32.50 AUTHORIZED EXPENDITURES.

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

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

(2) A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to § 32.52.

(3) Notwithstanding divisions (1) and (2) of this section, system development charges revenues may be expended on the direct costs of complying with the provisions of this subchapter, including the costs of developing system development charge methodologies and providing an annual accounting of system development charges expenditures.
(Ord. 94-29, passed 11-14-94)

§ 32.51 EXPENDITURE RESTRICTIONS.

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

(B) System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements.
(Ord. 94-29, passed 11-14-94)

§ 32.52 IMPROVEMENT PLAN.

The Council shall adopt a plan that:

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

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

(C) Describes the process for modifying the plan. In adopting this plan, the Council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section.

(Ord. 94-29, passed 11-14-94)

§ 32.53 COLLECTION OF CHARGE.

(A) The system development charge is payable upon issuance of:

(1) A building permit;

(2) A development permit;

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

(4) A permit or approval to connect to the water system;

(5) A permit or approval to connect to the sewer system;

(6) A permit or approval to connect to the storm drainage system; or

(7) A right-of-way access permit.

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

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

(D) The City Manager or the Manager's designee shall collect the applicable system development charges from the permittee when a permit that allows building or development of a parcel is issued or when a connection to the water or sewer system of the city is made.

(E) The City Manager or the Manager's designee shall not issue such permit or allow such connection until the charge has been paid in full, or until provision for installment payments has been made pursuant to § 32.55 of this subchapter, or unless an exemption is granted pursuant to § 32.56.
(Ord. 94-29, passed 11-14-94)

§ 32.54 INSTALLMENT PAYMENT.

(A) When a system development charge of \$50 or more is due and collectible, the owner of the parcel of land subject to the development charge may apply for payment for a period of ten years, with equal semi-annual payments, to include interest on the unpaid balance, in accordance with O.R.S. 223.208.

(B) The City Manager or the Manager's designee shall provide application forms for installment payments, except for the correction of computational errors.

(C) An applicant for installment payments shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the interest of the applicant is adequate to secure payment of the lien.

(D) The City Manager or the Manager's designee shall report to the finance officer the amount of the system development charges, the dates on which the payments are due, the name of the owner, and the description of the parcel.

(E) The Finance Officer shall docket the lien in the lien docket. From that time the city shall have a lien upon the described parcel for the amount of the

system development charges, together with interest on the unpaid balance at the rate established by the Council. The lien shall be enforceable in the manner provided in O.R.S. Chapter 223.

(Ord. 94-29, passed 11-14-94; Am. Ord. 2006-09, passed 8-14-06)

§ 32.55 EXEMPTIONS.

(A) Structures and uses established and existing on or before the effective date of this subchapter shall be charged under Ordinance No. 91-09, except water and sewer charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this ordinance upon the receipt of a permit to connect to the water or sewer system.

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

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

(D) A project financed by city revenues is exempt from all portions of the system development charges.

(Ord. 94-29, passed 11-14-94)

§ 32.56 CREDITS.

(A) When development occurs that is subject to a system development charge, the system development charge for the existing use, if applicable, shall be calculated and if it is less than the systems

development charge for the use that will result from the development, the difference between the system development charges for the existing use and system development charges for the proposed use shall be the system development charges. If the change in use results in the system development charges for the proposed use being less than the system development charges for the existing use, no system development charges shall be required. No refund or credit shall be given unless provided for by another subsection of this section.

(B) A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the city of the improvement. The credit provided for in the subsection shall only be for the improvement fee charged for the type of improvement being constructed, and credit for qualified public improvements may be granted only for the cost of that portion of such improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request for credit shall be filed in writing no later than 60 days after acceptance of the improvement by the city.

(C) When establishing the methodology for a system development charge, the city may provide for a credit against the improvement fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements, or a credit based upon any other rationale the Council finds reasonable.

(D) When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project. Credit shall not be transferable from one development to another.

(E) Credit shall not be transferable from one type of system development charge to another.

(F) Credits shall be used within ten years from the date the credit is given.
(Ord. 94-29, passed 11-14-94)

§ 32.57 NOTICE.

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

(B) The city may periodically delete names from the list, but at least 30 days prior to removing a name from the list, the city must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.
(Ord. 94-29, passed 11-14-94)

§ 32.58 SEGREGATION AND USE OF REVENUE.

(A) All funds derived from a particular type of system development charge are to be segregated by accounting practices from all other funds of the city. That portion of the system development charges calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in § 32.50.

(B) The City Manager or City Manager's designee shall provide the City Council with an annual accounting, based on the city's fiscal year, for system

development charges showing the total amount of system development charge revenues collected for each type of facility and the projects funded from each account.

(Ord. 94-29, passed 11-14-94)

§ 32.59 APPEAL PROCEDURE.

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

(B) Appeals of any other decision required or permitted to be made by the City Manager or City Manager's designee under this subchapter must be filed within ten days of the date of the decision.

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

(D) A legal action challenging the methodology adopted by the Council pursuant to § 32.49 shall not be filed later than 60 days after the adoption. A person shall contest the methodology used for calculating a system development charge only as provided in O.R.S. 34.010 to O.R.S. 34.100, and not otherwise.

(E) A person disagreeing with a decision on the amount of the system development charged, may file an appeal by the following process:

(1) Appeals on the amount of system development charged must be filed within ten business days of the date of the decision.

(2) (a) The appeal shall state:

1. The name and address of the appellant;
2. The nature of the determination being appealed;
3. The reason the appellant believes the determination is incorrect; and
4. What the appellant believes the correct determination to be.

(b) An appellant who fails to file such a statement within the time permitted waives his/her objections and his/her appeal shall be dismissed.

(3) Because the processing of an appeal entails the expense of administrative costs, every appeal shall be accompanied by a one time fee of \$300 made payable to the City of Seaside.

(4) Unless the appellant and the city agree to a longer period, an appeal shall be considered by the City Manager, or his/her designee, within ten business days of the receipt of the written appeal. A written response must be given to the appellant within this time period.

(5) The appellant shall have ten business days after receipt of the City Manager's decision to appeal this decision to the City Council. An appellant who fails to file such a statement with the City Manager, within the ten business days shall waive his/her objections and the City Manager's decision shall be final.

(6) The City Council shall consider an appeal filed under this division (E) within 20 business days. The appellant shall be notified of the City Council hearing date ten business days prior to the City Council hearing. By City Council motion, the report and recommendations of the City Manager shall be approved, modified or rejected. City Council decision shall be final. Any legal action contesting the City Council decision shall be filed within 60 business days of the City Council's decision. (Ord. 94-29, passed 11-14-94; Am. Ord. 2006-09, passed 8-14-06)

§ 32.60 PROHIBITED CONNECTION.

No person may connect to the sanitary sewer or water system or storm sewer system of the city unless the appropriate system development charge has been paid or the lien or installment payment method has been applied for and approved. (Ord. 94-29, passed 11-14-94)

§ 32.61 CLASSIFICATION.

The City Council determines that any fee, rates or charges imposed by this subchapter are not a tax subject to the property tax limitations of Article XI, Section 11(b) of the Oregon Constitution. (Ord. 94-29, passed 11-14-94)

TAX ON MARIJUANA AND SIMILAR PRODUCTS

§ 32.70 PURPOSE.

For the purposes of this subchapter, every person who sells marijuana, medical marijuana, or marijuana-infused products in the City of Seaside is exercising a taxable privilege. The purpose of this subchapter is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products. (Ord. 2014-06, passed 9-22-14)

§ 32.71 DEFINITIONS.

When not clearly otherwise indicated by the context, the following words and phrases as used in this chapter shall have the following meanings:

DIRECTOR. The Director of Finance for the City of Seaside or his or her designee.

GROSS TAXABLE SALES. The total amount received in money, credits, property, or other consideration from sales of marijuana, medical marijuana, and marijuana-infused products that is subject to the tax imposed by this chapter.

MARIJUANA. All parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

OREGON MEDICAL MARIJUANA PROGRAM. The office within the Oregon Health Authority that administers the provisions of O.R.S. 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.

PERSON. Natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

PURCHASE OR SALE. The retail acquisition or furnishing for consideration by any person of marijuana within the City and does not include the acquisition or furnishing of marijuana by a grower or processor to a seller.

REGISTRY IDENTIFICATION CARDHOLDER. A person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

RETAIL SALE. The transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a seller.

SELLER. Any person who is required to be licensed or has been licensed by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.

TAX. Either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.

TAXPAYER. Any person obligated to account to the Finance Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.
(Ord. 2014-06, passed 9-22-14)

§ 32.72 TAX IMPOSED.

For the privilege of the sale of marijuana and marijuana-infused products, each seller shall pay a tax which shall be established by resolution. The tax constitutes a debt owed by the seller to the city, which is extinguished only by payment by the seller to the city.

(A) There is hereby levied and shall be paid a tax by every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter.

(B) The amount of tax levied shall be established by resolution and approved by the City Council.
(Ord. 2014-06, passed 9-22-14)

§ 32.73 DEDUCTIONS.

The following deductions shall be allowed against sales received by the seller providing marijuana:

(A) Refunds of sales actually returned to any purchaser;

(B) Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.
(Ord. 2014-06, passed 9-22-14)

§ 32.74 SELLER RESPONSIBLE FOR PAYMENT OF TAX.

(A) Every seller shall, on or before the last day of the month following the end of each calendar quarter (in the months of January, April, July, and October) make a return to the Director, on forms provided by the city, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The seller may request or the Director may establish shorter reporting periods for any seller if the seller or Director deems it necessary in order to insure collection of the tax and the Director may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.

(B) At the time the return is filed, the full amount of the tax collected shall be remitted to the Director. Payments received by the Director for application against existing liabilities will be credited

toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the city. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.

(C) Non-designated payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the city in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any seller if the Director deems it necessary in order to insure collection of the tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to this chapter shall be held in trust for the account of the city until payment is made to the Director. A separate trust bank account is not required in order to comply with this provision.

(D) Every seller required to remit the tax imposed in this chapter shall be entitled to retain 5% of all taxes due to defray the costs of bookkeeping and remittance.

(E) (1) Every seller must keep and preserve in an accounting format established by the Director records of all sales made by the dispensary and such other books or accounts as may be required by the Director.

(2) Every seller must keep and preserve for a period of three years all books, invoices and other records. The Director shall have the right to inspect all such records at all reasonable times.

(Ord. 2014-06, passed 9-22-14)

§ 32.75 PENALTIES AND INTEREST.

(A) Any seller who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of 10% of the amount of the tax, in addition to the amount of the tax.

(B) Any seller who fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of 10% of the amount of the tax in addition to the amount of the tax and the penalty first imposed.

(C) If the Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in divisions (A) and (B) of this section.

(D) In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter shall pay interest at the rate of 1% per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(E) Every penalty imposed, and such interest as accrues under the provisions of this section, shall become a part of the tax required to be paid.

(F) Notwithstanding § 32.72, all sums collected pursuant to the penalty provisions in divisions (A) through (D) of this section shall be distributed to the City of Seaside General Fund to offset the costs of auditing and enforcement of this tax.

(G) *Waiver of penalties.* Penalties and interest for certain late tax payments may be waived pursuant to § 32.77.

(Ord. 2014-06, passed 9-22-14)

§ 32.76 FAILURE TO REPORT AND REMIT TAX; DETERMINATION OF TAX BY DIRECTOR.

If any seller should fail to make, within the time provided in this chapter, any report of the tax required by this chapter, the Director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the Director shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Director shall proceed to determine and assess against such seller the tax, interest, and penalties provided for by this chapter. In case such determination is made, the Director shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the seller so assessed at the last known place of address. Such seller may make an appeal of such determination as provided in § 32.77. If no appeal is filed, the Director's determination is final and the amount thereby is immediately due and payable.
(Ord. 2014-06, passed 9-22-14)

§ 32.77 APPEAL PROCEDURE.

(A) Any seller aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal the decision or the expenditures to the City Council by filing a written request with the Director or designee describing the decision of the Finance Director and the expenditure from which the person appeals. An appeal of any expenditure must be filed within one year of the date of the alleged improper expenditures.

(B) Appeals of any other decision required or permitted to be made by the Director or Director's designee under this subchapter must be filed within ten business days of the date of the decision.

(C) A person disagreeing with a decision on the amount of the expenditures taxed may file an appeal by the following process:

(1) Appeals on the amount of expenditures taxed must be filed within ten business days of the date of the decision.

(2) The appeal shall state:

(a) The name and address of the appellant;

(b) The nature of the determination being appealed;

(c) The reason the appellant believes the determination is incorrect; and

(d) What the appellant believes the correct determination to be.

(3) An appellant who fails to file such a statement within the time permitted waives his/her objections and his or her appeal shall be dismissed.

(4) Because the processing of an appeal entails the expense of administrative costs, every appeal shall be accompanied by a one time fee of \$300 made payable to the City of Seaside.

(5) Unless the appellant and the city agree to a longer period, an appeal shall be considered by the Director or his or her designee, within ten business days of the receipt of the written appeal. A written response must be given to the appellant within this time period.

(6) The appellant shall have ten business days after receipt of the Director's decision to appeal this decision to the City Council. An appellant who fails to file such a statement with the Director, within the ten business days shall waive his or her objections and the Director's decision to appeal shall be final.

(7) The City Council shall consider an appeal filed under this division (C) within 30 business days. The appellant shall be notified of the City Council hearing date ten business days prior to the City Council hearing. By City Council motion, the report and recommendations of the Director shall be

approved, modified, or rejected. City Council decision shall be final. Any legal action contesting the City Council decision shall be filed with 60 business days of the City Council's decision.
(Ord. 2014-06, passed 9-22-14)

§ 32.78 REFUNDS.

(A) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the city under this chapter, it may be refunded as provided in division (B) of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director within one year of the date of payment. The claim shall be on forms furnished by the Director.

(B) (1) The Director shall have 20 calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a seller may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received.

(2) The seller shall notify Director of claimant's choice no later than 15 days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the 15 day period and the seller is still in business, a credit will be granted against the tax liability for the next reporting period. If the seller is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

(C) No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund

and the Director acknowledged the validity of the claim.
(Ord. 2014-06, passed 9-22-14)

§ 32.79 ACTIONS TO COLLECT.

Any tax required to be paid by any seller under the provisions of this chapter shall be deemed a debt owed by the seller to the city. Any such tax collected by a seller which has not been paid to the city shall be deemed a debt owed by the seller to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the City of Seaside for the recovery of such amount. In lieu of filing an action for the recovery, the City of Seaside, when taxes due are more than 30 days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Seaside has complied with the provisions set forth in O.R.S. 697.105, in the event the city turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of \$50 or 50% of the outstanding tax, penalties and interest owing.
(Ord. 2014-06, passed 9-22-14)

§ 32.80 VIOLATION INFRACTIONS.

(A) All violations of this chapter are punishable as set forth. It is a violation of this chapter for any seller or other person to:

- (1) Fail or refuse to comply as required herein;
- (2) Fail or refuse to furnish any return required to be made;
- (3) Fail or refuse to permit inspection of records;
- (4) Fail or refuse to furnish a supplemental return or other data required by the Director;

(5) Render a false or fraudulent return or claim; or

(6) Fail, refuse, or neglect to remit the tax to the city by the due date.

(B) Filing a false or fraudulent return shall be considered a Class C misdemeanor. The remedies provided by this section are not exclusive and shall not prevent the city from exercising any other remedy available under the law, nor shall the provisions of this chapter prohibit or restrict the city or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance.
(Ord. 2014-06, passed 9-22-14)

§ 32.81 CONFIDENTIALITY.

Except as otherwise required by law, it shall be unlawful for the city, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the city under the terms of this chapter. Nothing in this section shall prohibit:

(A) The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or

(B) The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or

(C) Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for amount due the city under this chapter; or

(D) The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or

(E) The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or the tax exceeds \$5,000. The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under O.R.S. 192.501(5).
(Ord. 2014-06, passed 9-22-14)

§ 32.82 AUDIT OF BOOKS, RECORDS OR PERSONS.

(A) The city, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the city for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return.

(B) All books, invoices, accounts and other records shall be made available within the city limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the Seaside Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts, and records for examination.
(Ord. 2014-06, passed 9-22-14)

§ 32.83 FORMS AND REGULATIONS.

(A) The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said medical marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

(1) A form of report on sales and purchases to be supplied to all vendors;

(2) The records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this chapter.

(Ord. 2014-06, passed 9-22-14)

§ 32.99 PENALTY.

(A) Any person wilfully violating any of the provisions of §§ 32.01 through 32.19 shall be guilty of a misdemeanor, and may be punishable therefor by a fine of not more than \$500, or by imprisonment in the city or county jail for a period of not more than six months, or by both such fine and imprisonment.

(Ord. 73-41, passed 9-10-73; Am. Ord. 93-19, passed 6-14-93)

(B) Any person violating § 32.60 shall be punishable therefor by a fine of not more than \$500.

(Ord. 94-29, passed 11-14-94)

CHAPTER 33: IMPROVEMENT DISTRICTS

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(6) Any other economic improvement activity for which an assessment may be made on property specifically benefitted thereby.

LOT. Lot, block or parcel of land.

OWNER. The owner of the title to real property or the contract purchase of real property, of record as shown on the last available complete assessment roll in the office of the County Assessor.
(Ord. 85-48, passed 11-25-85)

ECONOMIC IMPROVEMENT DISTRICT

§ 33.01 PURPOSE.

The City Council has determined that it is reasonable and necessary to establish Economic Improvement Districts in order to make economic improvements and to assess the cost of these improvements to the benefitted property.
(Ord. 85-48, passed 11-25-85)

§ 33.02 DEFINITIONS.

COUNCIL. The City Council.

ECONOMIC IMPROVEMENT.

- (1) The planning or management of development or improvement activities.
- (2) Landscaping or other maintenance of public areas.
- (3) Promotion of commercial activity or public events.
- (4) Activities in support of business recruitment and development.
- (5) Improvements in parking systems or parking enforcement.

§ 33.03 CITY NOT AUTHORIZED TO TAKE CERTAIN ACTION.

The city shall not be authorized to:

- (A) Levy assessments in an economic improvement district in any year that exceeds 1% of the true cash value of all the real property located within the district.
- (B) Include within an economic improvement district any area of the city that is not zoned for commercial or industrial use.
- (C) Levy assessments on residential real property or any portion of a structure used for residential purposes.
(Ord. 85-48, passed 11-25-85)

§ 33.04 ESTABLISHING THE DISTRICT AND ASSESSMENTS.

- (A) The Council in establishing an assessment district shall adopt an ordinance that:
 - (1) Describes the economic improvement project to be undertaken or constructed.
 - (2) Contains a preliminary estimate of the probable cost of the economic improvement and the proposed formula for apportioning cost to specially benefitted property.

(3) Describes the boundaries of the district in which property will be assessed.

(4) Specifies the number of years, to a maximum of three, in which assessments will be levied.

(5) Contains provision for notices to be mailed or delivered personally to affected property owners that announce the intention of the Council to construct or undertake the economic improvement project and to assess benefitted property for a part or all of the cost. The notice shall state the time and place of the public hearing under division (6) of this section.

(6) Provides for a hearing not sooner than 30 days after the mailing or delivery of notices to affected property owners at which the owners may appear to support or object to the proposed improvement and assessment.

(B) The ordinance shall also:

(1) Provide that if, after the hearing held under division (A)(6) above, the Council determines that the economic improvement shall be made, the Council shall determine whether the property benefitted shall bear all or a portion of the cost of the economic improvement and the amount of assessment on each lot in the district.

(2) Require the City Auditor to prepare the proposed assessment for each lot in the district and file it with the Finance Office.



(3) Require notice of such proposed assessment to be mailed or personally delivered to the owner of each lot to be assessed, which notice shall state the amount of the assessment proposed on the property of the owner receiving the notice. The notice shall state the time and place of a public hearing at which affected property owners may appear to support or object to the proposed assessment. The hearing shall not be held sooner than 30 days after the mailing or personal delivery of the notices.

(4) Provide that the Council shall consider such objections and may adopt, correct, modify or revised the proposed assessments.

(5) Provide that the assessments will not be made and the economic improvement project terminated when written objections are received at the public hearing from owners of property upon which more than 33% of the total amount of assessment is levied.

(Ord. 85-48, passed 11-25-85)

§ 33.05 ADVISORY COMMITTEE.

The Council may appoint an advisory committee for each economic improvement district to advise an allocation of expenditure of monies for economic development activities within the scope of this subchapter. If an advisory committee is created, the Council shall strongly consider appointment of owners of property within the economic improvement district to the advisory committee. The advisory committee may be an existing committee or commission. An advisory committee may enter into an agreement with the city to provide the proposed economic improvement.

(Ord. 85-48, passed 11-25-85)

§ 33.06 AMENDMENTS.

(A) When the Council considers it necessary to levy assessments upon property in an economic improvement district for longer than the original period of time specified in the assessment ordinance that created the district, the Council shall enact an ordinance that provides for continued assessments for

an additional specific number of years (not to exceed three years) and grants to property owners in the district the notice and right to remonstrance described in § 33.04(A)(2) through (5) of this subchapter.

(B) When the Council considers it necessary to expand the boundaries of the district, each new property owner included will receive notice and have the right to remonstrance as specified in § 33.04 of this subchapter. Boundary changes will be made by the enactment of an ordinance by the Council.

(Ord. 85-48, passed 11-25-85)

§ 33.07 EXPENDITURE OF FUNDS.

The City Council shall not expend any monies derived from assessments levied under this subchapter for any purpose different from the purpose described in this subchapter adopted under § 33.04.

(Ord. 85-48, passed 11-25-85)

LOCAL IMPROVEMENT DISTRICT

§ 33.20 SHORT TITLE.

This subchapter shall be known as the *Local Improvement District* ordinance of the city.

(Ord. 93-03, passed 3-8-93)

§ 33.21 DEFINITIONS.

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

ACTUAL COST. All reasonable costs associated with the project including but not limited to materials, labor, administration, engineering, and financing.

ASSESSMENT FOR LOCAL IMPROVEMENT. Any fee, charge or assessment that does not exceed the actual cost incurred by the city for design, construction and financing of a local improvement.

BONDED INDEBTEDNESS. Any formally executed written agreement representing a promise by the city to pay to another a specified sum of money, at a specified date or dates at least one year in the future.

CAPITAL CONSTRUCTION. The construction, modification, replacement, repair, remodeling, acquisition, renovation of a structure, or addition to a structure, which is expected to have a useful life of more than one year.

CAPITAL IMPROVEMENTS. Land, structures, facilities, machinery, equipment or furnishings, above or below ground, having a useful life longer than one year.

CITY. The City of Seaside, Oregon.

COUNCIL. The Seaside City Council.

ESTIMATED ASSESSMENT. The amount estimated by the city to be charged to each property based on the estimated actual cost.

EXEMPT BONDED INDEBTEDNESS.

(1) Bonded indebtedness authorized by a specific provision of the Oregon Constitution.

(2) Bonded indebtedness incurred or to be incurred for capital construction or capital improvements, that is issued as a general obligation of the city.

(3) Bonded indebtedness issued to refund or refinance any bonded indebtedness described in the above definition of **EXEMPT BONDED INDEBTEDNESS.**

FINAL ASSESSMENT. With respect to each property to be assessed in connection with a local improvement, the total assessment levied against the property following completion of the local improvement. The total assessment shall be based on the actual costs of the local improvement and the formula for apportioning the actual costs to the property.

FINANCING.

(1) All costs necessary or attributable to acquiring and preserving interim or permanent financing of a local improvement.

(2) Financing costs that are to be incurred after the levy of a final assessment may be included in the final assessment based on the city's reasonable estimate of the financial costs if the city first documents the basis for the estimate and makes the documentation available to interested persons on request.

LOCAL IMPROVEMENT. A capital construction project or part thereof undertaken by the city pursuant to the procedure to be followed in making local assessments for benefits from a local improvement upon the lots which have been benefitted by all or part of the improvement:

(1) Which provides a special benefit only to specific properties or rectifies a problem caused by specific properties.

(2) The costs of which are assessed against those properties in a single assessment upon the completion of the project.

(3) For which the payment of the assessment plus appropriate interest may be spread over a period of at least ten years by the property owner.

(4) The total of all assessments for a local improvement shall not exceed the actual cost incurred by the city in designing, constructing and financing the project.

(5) For purposes of this section, the status of capital construction project as a local improvement is not affected by the accrual of a general benefit to property other than the property receiving the specific benefit.

LOT. Lot, block or parcel of land.

MANAGER. The City Manager of the city.

OWNER. The owner of the title to real property

or the contract purchaser of real property of record as shown on the last available complete assessment roll in the office of the County Assessor.

PROPERTY BENEFITTED. All property specifically benefitted by the improvement, the relative extent of such benefit to be determined by any just and reasonable method of apportionment of the total cost of the improvement between the properties as determined by City Council.

RECORDER. The Finance Director of the city, or other official or employee as the governing body of the city shall designate to act as recorder.

SINGLE ASSESSMENT. The complete assessment process, including preassessment, assessment or reassessment, for any authorized local improvement which provides the procedure to be followed in making local assessments for benefits from a local improvement upon lots which have been benefitted by all or part of the improvement.

SPECIAL BENEFIT ONLY TO SPECIFIC PROPERTIES. The same meaning as "special and peculiar benefit" as that term is used in state law. (See O.R.S. 223.389)

STRUCTURE. Any temporary or permanent building or improvement to real property of any kind, which is constructed on or attached to real property, whether above, on or beneath the surface.

TREASURER. The Finance Director of the city or his/her designee.

TRUE CASH VALUE. In determining the **TRUE CASH VALUE** of taxable property for the purpose of calculating the total amount of indebtedness which may be incurred by the state or local governments under the Oregon Constitution or laws of the state, the "real market value," as defined in Section 11 b (2)(a), Article XI of the Oregon Constitution, may be used if and to the extent that the "real market value" does not exceed the **TRUE CASH VALUE**.
(Ord. 93-03, passed 3-8-93)

§ 33.22 PROVISIONS FOR LEVYING, COLLECTING AND ENFORCING ASSESSMENTS.

In levying, collecting and enforcing assessments for local improvement, the following shall apply:

(A) Real property may be described by giving the subdivision according to the United States survey when coincident with the boundaries thereof, or by lots, blocks and addition names, or by giving the boundaries thereof by metes and bounds, or by reference to the book and page of any public record of the county where the description may be found, or by designation of tax lot number referring to a record kept by the assessor of descriptions of real properties of the county, which record shall constitute a public record, or in any other manner as to cause the description to be capable of being made certain.

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

(C) Any description of real property which conforms substantially to the requirements of this section shall be a sufficient description in all proceedings of assessment relating or leading to a final assessment for a local improvement foreclosure and sale of delinquent assessments, and in any other proceeding related to or connected with levying, collecting and enforcing final assessments for special benefits to the property.
(Ord. 93-03, passed 3-8-93)

§ 33.23 PLANS AND SPECIFICATIONS.

Whenever the Council shall determine to proceed to make a local improvement to be paid for in whole or in part by the property benefitted, the Council shall, by motion, direct the City Manager to have a report prepared containing the following information:

(A) A description of the local improvement proposed.

(B) Preliminary plans and outline specifications for such local improvement.

(C) A description of the boundaries of the proposed local district.

(D) A just and reasonable method for apportioning the actual costs of the local improvement to the properties benefitted.

(E) The estimated actual cost of the local improvement.

(F) The estimated proportionate actual cost of the local improvement to be assessed to each benefitted property, listed by owner.

(G) The estimated portion of the actual cost of the improvement to be borne by any city funds, if any, completed.

(H) This report shall be filed in the office of the recorder when completed.
(Ord. 93-03, passed 3-8-93)

§ 33.24 CONSIDERATIONS IN ASSESSING COSTS.

The Council shall consider the following in assessing costs of the local improvement:

(A) The use of any just and reasonable method of determining the extent of the district boundaries consistent with the benefits derived, the Oregon Constitution and Oregon Laws.

(B) The use of any method of apportioning the actual cost or estimated actual cost to be assessed is

just and reasonable among the properties determined to be specially benefitted and consistent with the Oregon Constitution and Oregon Laws.

(C) Payment by the city of all or any part of the actual cost or estimated actual cost of any improvement when, in the opinion of the council, on account of topographical or physical conditions, unusual or excessive use by the general public, or other character of the local improvement, or when the Council otherwise believes it to be just and reasonable.

(D) Other available means of financing the estimated actual cost of the local improvement, including federal or state grants-in-aid, sewer service or other types of services or 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, subject to the constraints of the Oregon constitution and Oregon laws, in its discretion, levy assessments for local improvement districts hereunder according to benefits to cover any part of the costs, subject to the constraints of the Oregon constitution and Oregon laws, of the local improvement not covered by such means.

(Ord. 93-03, passed 3-8-93)

§ 33.25 ENACTMENT OF RESOLUTION BY COUNCIL.

(A) After the City Manager's report has been filed with the Recorder, and after the Council has examined such report and found the same to be satisfactory, and the estimated cost and apportionment thereof to be reasonable and just, and after having found the boundaries of such improvement district to be properly determined, the Council may, by resolution, propose to make such an improvement, and to create a local improvement district.

(B) The resolution shall state:

(1) The boundaries of such local improvement district.

(2) The proposed method of apportioning the estimated assessment of the local improvement among the property owners.

(3) The portion of the estimated actual cost, if any, which the city shall pay.

(4) That such portion of the estimated assessments, which are assessed to the property owners shall be a charge and lien upon properties benefitted.

(5) The time and place for a public hearing.

(6) Unless owners of $\frac{2}{3}$ of the property subject to the assessment within said local improvement district file with the City Recorder a written objection and remonstrance against such proposed local improvement district prior to the public hearing or present their written or oral objections at the public hearing, the Council shall be deemed to have acquired jurisdiction to order the formation of the local improvement district to conform in all particulars to the plans and specifications previously adopted. Any such objection or remonstrance shall state the objections and grounds for such objection or remonstrance.
(Ord. 93-03, passed 3-8-93)

§ 33.26 NOTICES.

(A) Notice shall include the following:

(1) Resolution of intent is posted at city hall.

(2) Resolution of intent is placed in a newspaper of general circulation in the city at least ten days prior to the public meeting.

(3) Resolution of intent is mailed to owners of benefitted properties.

(B) Delivery of notice. Whenever a notice is required to be sent to the owner of a lot affected by a proposed assessment such notice shall be addressed to the owner or his agent. If the address of the owner or his agent is unknown to the Recorder, the

Recorder shall mail the notice addressed to the owner or his agent at the city where such property is located. Any mistake, error, omission, or failure with respect to such mailing shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner, or, if personal service cannot be had, then by publication once a week for two successive weeks in a newspaper of general circulation in the city.
(Ord. 93-03, passed 3-8-93)

§ 33.27 PREVENTION BY REMONSTRANCES.

(A) If those owners of $\frac{2}{3}$ of the property subject to the assessment within the local improvement district file with the Recorder a written objection or remonstrance against such proposed local improvement district prior to the public hearing, or present their written or oral objections at the public hearing, such remonstrance shall be a bar to any further proceeding in the making of such improvement for a period of six months.

(B) If the Council reaffirms its desire to form a LID within one year of the successful remonstrance against the LID, a second remonstrance from owners of $\frac{2}{3}$ or more of the property subject to the proposed assessment will delay action for another six months. After expiration of this six-month period the City Council shall have the authority to make the improvement and proceed with the proposed assessments.
(Ord. 93-03, passed 3-8-93)

§ 33.28 ORDINANCE CREATING LOCAL IMPROVEMENT DISTRICT.

(A) *Public hearing.* After the public hearing, if the local improvement district has not been objected to by those owners of $\frac{2}{3}$ of the property subject to the assessment, the Council may provide for the creation of the local improvement district by ordinance. This ordinance shall describe the improvement(s) to be made and the boundary of the local improvement district. The ordinance shall also provide that the estimated assessments against the properties benefitted shall be charges and liens against the property. The

city may enforce collection of such assessments provided by state law.

(B) *Adoption process.* In creating the local improvement by ordinance, the Council shall consider the objections or remonstrances made and the reasons stated for them. The Council may adopt, correct, modify or revise the proposed assessments or estimated assessments and shall determine the amount of assessment or estimated assessments to be charged against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvement and shall by ordinance spread the assessments. The estimated assessment lien shall continue until the time the estimated assessments become a final assessment.

(C) *Plans.* The ordinance shall also direct the City Manager to have detailed plans and specifications of the local improvement prepared and that, when appropriate, the city invite bids for construction of the local improvement.
(Ord. 93-03, passed 3-8-93)

§ 33.29 GENERAL POLICY CONCERNING BIDS.

(A) *General.* It shall be the general policy of the city to call for bids for making local improvements and to award the bid to the lowest responsible bidder. However, this general policy shall not prohibit the Council from providing that the city construct the local improvements rather than private contractors.

(B) *Low bid.* The Council shall have the authority to accept the lowest responsive aggregate bid which is in the best interest of the city for all of the local improvement districts bid at the same time, and allocate the proper amount of the total cost to each district separately.

(C) *Council discretion.* The Council may reject any and all bids submitted. The Council shall not be required to accept any bid for any individual district even though the same may comply with the

requirements hereof when the aggregate bid fails to meet the requirements of other local improvement districts then bid.

(Ord. 93-03, passed 3-8-93)

§ 33.30 ASSESSMENT ORDINANCE PROCEDURES.

(A) *Initial assessments.* If the City Council determines that the local improvement district shall be created, the City Council shall provide for the assessment or estimated assessment of the benefitted properties, and for the apportionment of the assessment or estimated assessment to the individual lots within the local improvement district by ordinance by one of the following methods:

- (1) Actual cost of the local improvement;
- or
- (2) The estimated actual cost of the local improvement.

(B) *Notice.* The Recorder shall prepare the assessment or estimated assessment to the respective lots within the assessment district and file it with the appropriate city office. Notice of such assessment or estimated assessment shall be mailed or personally delivered to the owner of each lot proposed to be assessed, which notice shall state the amounts of assessment or estimated assessment proposed on that property and shall fix a date by which time objections and the grounds for objections shall be filed with the recorder. Any objection shall state the grounds thereof. The City Council shall consider such objections and may adopt, correct, modify or revise the proposed assessments and shall determine the amount of assessment to be charged against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvement, and shall by ordinance spread the assessments.

(C) *Actual cost.* In determining the assessments or estimated assessments for the local improvement the Council shall use the actual cost which means all direct or indirect costs incurred by city in order to deliver goods or services or to undertake a capital construction project.

(D) *Lien*. The assessment ordinance shall provide that the assessments or estimated assessments against the benefitted properties shall be a lien against the assessed properties and that the city may enforce collection of such assessments as provided by state law.

(E) *Estimated cost*. If the initial assessment has been made on the basis of estimated actual cost, and upon the completion of work the cost is found to be greater or less than the estimated cost, the City Council shall make an assessment for the correct actual costs.

(Ord. 93-03, passed 3-8-93)

§ 33.31 LIEN RECORDING; PAYMENTS OVER TIME OR BY CASH.

(A) If the city has proceeded to cause any local improvement to be constructed or made within the corporate limits of the city, and has determined the final assessment for the local improvement against the property benefitted thereby or liable therefor, according to applicable laws, the city shall cause notice of the final assessment to be published. The notice shall identify the local improvement for which the assessment is to be made, each lot to be assessed and the final assessment for each lot. In addition, the notice shall state that the owner of any property to be assessed shall have the right to make application to the city for payment of the final assessment in installments as provided in this subchapter. A copy of the notice shall be mailed or personally delivered to the owner of each lot to be assessed.

(B) The owner of any property to be so assessed, at any time within ten days after notice of final or estimated assessment is first published, may file with the Recorder a written application to pay:

(1) The whole of the final or estimated assessment in installments;

(2) If part of the final or estimated assessment has been paid, the unpaid balance of the final assessment in installments.

(C) At the option of the city, an installment application may be filed not more than ten days after the notice of the final assessment is first published.

(D) The installment application shall state that the applicant does thereby waive all irregularities or defects, jurisdictional or otherwise, in the proceedings to cause the local improvement for which the final assessment is levied and in the apportionment of the actual costs of the local improvement.

(E) The application shall provide that the applicant pay the final or estimated assessment over a period of not more than 20 years and according to such terms as the city may provide.

(F) The application shall also provide that the applicant acknowledges and agrees to pay interest at the rate provided by the city on all unpaid assessments, together with an amount, determined by the city, sufficient to pay a proportionate part of the cost of administering the bond assessment program and issuing the bonds authorized under state law (O.R.S. 223.235), including but not limited to legal, printing and consultant's fees.

(G) The application shall also contain a statement, by lots or blocks or other convenient description, of the property of the applicant assessed for the improvement.

(H) In connection with the final assessments for any local improvement, the city may establish a procedure by which an owner of any property to be assessed may irrevocably elect in writing to have the final or estimated assessment levied for a number of years less than ten, which shall be determined by the city. The written election shall:

(1) Be signed by the owner or a duly authorized representative of the owner;

(2) Contain a description of the assessed property and the local improvement for which the assessment is made; and

(3) Contain a statement by the owner acknowledging that the improvement is a local improvement as described in this subchapter, that payment of the final assessment against the properties

benefitted by the local improvement plus interest may be spread over at least ten years and that, notwithstanding any provision of law, the owner consents to make payments over a period of less than ten years and to have the assessment levied on the benefitted property accordingly.

(I) The election of this section shall be recorded in the bond lien docket for the local improvement to which the assessment relates. From and after the time at which the written election is so recorded, it shall be valid and binding upon all subsequent owners of the property or any part thereof.

(J) When a bond lien docket is made up, as provided in state law (O.R.S. 223.230), as to the final assessments for any local improvement, the city shall by ordinance or resolution authorize the issue of its bonds pursuant the applicable provisions of state law (O.R.S. Chapter 288).

(K) The bonds authorized to be issued under this section may be issued in an amount not to exceed the unpaid balance of all final assessments for the related local improvements including the amounts necessary to fund any debt service reserve and to pay any other financing costs associated with the bonds.

(L) Bonds.

(1) If the question of the issuance of the specific bonds has been approved by the electors of the city and the bonds are issued as general obligation bonds, the city shall each year assess, levy and collect a tax on all taxable property within its boundaries. The amount of the tax shall be sufficient to pay all principal of and interest on the bonds that are due and payable in that year and to replenish any debt service reserves required for the bonds. In computing the amount of taxes to impose, the city shall deduct from the total amount otherwise required the amount of final installment payments which are pledged to the payment of the bonds and which are due and payable in that year, and shall add to this net amount the amount of reasonably anticipated delinquencies in the payments of the installments or the taxes.

(2) The taxes shall be levied in each year and returned to the county officer whose duty it is to extend the tax roll within the time and in the manner provided in state law (O.R.S. 310.060).

(3) The taxes shall become payable at the same time and be collected by the same officer who collects county taxes and shall be turned over to the city according to law.

(4) The county officer whose duty it is to extend the county levy shall extend the levy of the city in the same manner as city taxes are extended. Property shall be subject to sale for nonpayment of the taxes levied by the city in like manner and with like effect as in the case of county and state taxes.

(M) If the question of the issuance of the specified bonds has not been approved by the electors of the city and the bonds are issued as limited tax obligation bonds, the city may, subject only to the limitations of Section 11 b (1), Article XI of the Oregon constitution, calculate, assess, levy and collect a tax on all taxable property within its boundaries in the manner provided in this subchapter. The amount of such tax shall be sufficient to pay all principal of and interest on such bonds which is due and payable in that year and to replenish any debt service reserves required for such bonds, provided that if such bonds are issued as limited tax obligation bonds the amount of such tax shall not exceed the amount permitted under Section 11 b (1), Article XI of the Oregon constitution.

(N) Security for bonds.

(1) All bonds issued pursuant to this section, including general obligation bonds, shall be secured by and be payable from the installments of final assessment with respect to which the bonds were issued.

(2) In the ordinance or resolution authorizing the issuance of the bonds, the city may:

(a) Provide that installments of final assessments levied with respect to two or more local improvements shall secure a single issue of bonds.

(b) Reserve the right to pledge, as security for any bonds thereafter issued pursuant to this section, any installments of final assessments previously pledged as security for other bonds issued pursuant to this section.

(3) All bonds shall be secured by a lien on the installments of final assessments with respect to which they were issued. The lien shall be valid, binding and fully perfected from the date of issuance of the bonds. The installments of final assessments shall be immediately subject to the lien without the physical delivery thereof, the filing of any notice or any further act. The lien shall be valid, binding and fully perfected against all persons having claims of any kind against the city or the property assessed whether in tort, contract or otherwise, and irrespective of whether such persons have notice of the lien.

(O) As additional security for any bonds issued under this section, including general obligation bonds, the city may pledge or mortgage, or grant security interests in, its revenues, assets and properties, and otherwise secure and enter into covenants with respect to the bonds, as provided in state law.

(P) Authority of city to borrow.

(1) The city shall have the power, at any time and from time to time after the undertaking of a local improvement has been authorized, to borrow money and issue and sell notes for the purpose of providing interim financing for the actual costs of the local improvement.

(2) Notes authorized under this subsection may be issued in a single series for the purpose of providing interim financing for two or more local improvements.

(3) Notes authorized under this subsection shall mature not later than one year after the date upon which the city expects to issue bonds for the purpose of providing permanent financing with respect to installment payments of the final assessments for the local improvements.

(4) Any notes authorized under this subsection may be refunded from time to time by the issuance of additional notes or out of the proceeds of bonds issued pursuant to this section. The notes may be made payable from the proceeds of any bonds to be issued under this section to provide permanent financing or from any other sources from which the bonds are payable.

(5) The city may pledge the payment of bonds authorized to be issued under this section with respect to the local improvements for which the notes provide interim financing.

(Q) The city may create, within the Bancroft Bond Redemption Fund maintained by the city as required by state law (O.R.S. 223.285), separate accounts for separate issues of bonds or notes issued as provided in state law (O.R.S. 223.235), and may pledge any amounts deposited in the separate accounts to specific issues of bonds or notes without pledging the amounts to any other issues of such bonds or notes.

(R) The installments due and payable under an assessment contract shall be due and payable periodically as the city shall determine but shall not be due and payable over a term in excess of 20 years. Each installment is due and payable with interest as described under division (T) of this section.

(S) The installments and interest are payable to the Treasurer by the property owner whose application to pay the cost of the local improvement by installments has been filed as provided in state law (O.R.S. 223.210).

(T) The amount of each installment (percentage of the total final assessment) shall be determined by the city and shall be as appears by the bond lien docket described in state law (O.R.S. 223.230). Each installment shall be due and payable with the accrued and unpaid interest on the unpaid balance of the final assessment amount at the rate per annum determined by the city.

(U) The city shall have the right to impose a 10% penalty on the amount due, including principal, interest, and penalties, if payment is not received within 30 days of the due date.

(V) The first payment shall be due and payable on the date that the city shall determine, and subsequent payments shall be due and payable on subsequent periodic dates thereafter as shall have been determined by the city.

(W) If the owner neglects or refuses to pay installments under state law (O.R.S. 223.265) as they become due and payable for a period of one year, then the city may, by reason of the neglect or refusal to pay the installments, and while the neglect and refusal to pay continues, pass a resolution:

(1) Giving the name of the owner then in default in the payment of the sums due;

(2) Stating the sums due either principal or interest and any unpaid late payment penalties or charges;

(3) Containing a description of the property upon which the sums are owing;

(4) Declaring the whole sum, both principal and interest, due and payable at once.

(X) The city may then proceed at once to collect all unpaid installments and to enforce collection thereof, with all unpaid late payment penalties and charges added thereto, in the same manner in which delinquent property taxes are collected under applicable law.

(Ord. 93-03, passed 3-8-93)

§ 33.32 PARKING AND OTHER SPECIAL CITY IMPROVEMENTS.

The city may finance parking facilities by any one or any combination of the following methods:

(A) General obligation bonds within the legal debt limitations, or revenue bonds payable primarily or solely out of revenue from parking facilities in such amounts, at such rate of interest, and upon such conditions as may be prescribed by the legislative authority of the city.

(B) Special or benefit assessments equal to the actual costs of the parking facilities, or a portion

thereof, such assessment to be levied against property benefitted in proportion to the benefit derived, the amount of such assessment to be determined in accordance with special assessment practices for local improvements.

(C) Parking fees, special charges or other revenue derived from the use of off-street parking facilities by motorists, concessionaires, commercial enterprises or others.

(D) General fund appropriations.

(E) State or federal grants or local aids.

(F) Parking meter revenue.

(G) General property taxes, or gift, bequest, devise, grant or otherwise.

(H) A reasonable annual fee on the privilege of occupying real property within the city or a district of the city to carry on a business, occupation, profession or trade. In levying the fee, the city shall take into consideration the unmet off-street parking requirements of such business. The proceeds of the fee, less refunds and costs of collection, shall be used solely for the purposes of O.R.S. 223.805 to 223.845. The fee is in addition to, and not in lieu of, any other tax, assessment, or fee required by state or local law or ordinance.

(Ord. 93-03, passed 3-8-93)

§ 33.33 ERRORS IN ASSESSMENT CALCULATIONS.

Claimed errors in the calculation of final assessments shall be called to the attention of the City Manager prior to any payment on account. The City Manager shall check the calculation.

(Ord. 93-03, passed 3-8-93)

§ 33.34 AUTHORITY OF CITY TO MAKE REASSESSMENT.

Whenever all or part of any assessment for improvements was or is declared void or set aside for any reason or its enforcement refused by any court by

reason of jurisdictional or other defects in procedure, whether directly or by virtue of any court decision or when the Council is in doubt as to the validity of all or part of any such assessment by reason of such defects in procedure, the Council may by ordinance make a new assessment or reassessment with respect to all or part of the original assessment upon the lots which have been benefitted by all or part of the improvement to the extent of their respective and proportionate shares of the full value of such benefit. (Ord. 93-03, passed 3-8-93)

§ 33.35 BASIS FOR, AMOUNT AND METHOD OF REASSESSMENT.

The reassessment shall be based upon the special and peculiar benefit of the improvement to the respective lots at the time of the original making of the improvement. The amount of the reassessment shall not be limited to the amount of the original assessment but the property embraced in the reassessment shall be limited to property embraced in the original assessment. However, property on which the original assessment was paid in full shall not be included in the reassessment. Interest from the date of delinquency of the original assessment may be added by the Council to the reassessment in cases where the property was included in the original assessment, but such interest shall not apply to any portion of the reassessment that exceeds the amount of the original assessment be made in an equitable manner as nearly as may be in force at the time the improvement was made, but the Council may adopt a different plan of apportioning benefits or exclude portions of the district when in its judgement it is essential to secure an equitable assessment. Credit shall be allowed on the new assessment for all payments made on the original assessment. (Ord. 93-03, passed 3-8-93)

§ 33.36 EFFECT OF REASSESSMENT; EXCEPTIONS.

The reassessment when made shall become a charge upon the property upon which it is laid notwithstanding the omission, failure or neglect of any officer, body or person to comply with the provisions of the charter or law connected with or

relating to the improvement and original assessment or any previous reassessment, and although the proceedings of the Council or the acts of any officer, contractor or other person connected with the improvement or assessment may have been irregular or defective, whether such irregularity or defect was jurisdictional or otherwise. The reassessment shall not be made in case of any improvement wherein a remonstrance sufficient in law to defeat it has been duly filed prior to the making of the improvement. (Ord. 93-03, passed 3-8-93)

§ 33.37 COUNCIL RESOLUTION TO REASSESS.

The proceedings required by the Charter or other law for making of the original assessment are not required with reference to the making of a reassessment. The reassessment shall be initiated by adoption of a resolution designating the improvement as to which a reassessment is contemplated, describing the boundaries of the district that the Council contemplates for the reassessment and directing the Recorder or other person to prepare a proposed reassessment upon the property included within the district. After passage of such resolution, the recorder or other person shall prepare the proposed reassessment and file it in the office of the Recorder. (Ord. 93-03, passed 3-8-93)

§ 33.38 PUBLICATION OF NOTICE OF REASSESSMENT.

After the proposed reassessment is filed in the Recorder's office, the Recorder shall give notice thereof by not less than four successive publications in a newspaper published in the city and, if there is no newspaper published in the city, in a newspaper to be designated by the Council. The notice shall show that the proposed reassessment is on file in the office of the Recorder, giving the date of the passage of the resolution authorizing it, the boundaries of the district or a statement of the property affected by the proposed reassessment, and specifying the time and

place where the Council will hear and consider objections to the proposed reassessment by any parties aggrieved thereby.

(Ord. 93-03, passed 3-8-93)

§ 33.39 PERSONAL NOTICE TO EACH OWNER; RIGHT TO FILE OBJECTIONS.

The Recorder shall, within five days after the date of first publication of the notice, mail or personally deliver to the owner of each lot affected by the proposed reassessment, or to the agent of such owner, a notice of the proposed reassessment, stating the matters set out in the printed notice and also the amount proposed to be charged against the lot. If the address of the owner or of the owner's agent is unknown to the Recorder, he shall mail the notice addressed to the owner or owner's agent at the city where such property is located. Any mistake, error, omission or failure with respect to such mailing shall not be jurisdictional or invalidate the reassessment proceedings. The owners of any property included in the description of the printed notice, or any person having an interest in that property, may, within ten days from the day of last insertion of the printed notice, file in writing with the Recorder objections against the proposed reassessment.

(Ord. 93-03, passed 3-8-93)

§ 33.40 HEARING ON OBJECTIONS; REVISION OF REASSESSMENT.

At the time and place appointed in the notice the Council shall hear and determine all objections filed under § 33.39 of this subchapter. The Council may adjourn the hearing from time to time, and correct, modify or revise the proposed reassessment or set it aside and order the making of a new proposed reassessment. However, if the proposed reassessment is corrected or revised so as to increase the amount proposed to be charged against any property, such reassessment shall not be made until after a new notice has been given as stated in § 33.39 of this subchapter to the owners of property against which the amount of assessment is proposed to be thus increased. The publication of the notice may be for not less than two successive insertions in a newspaper as provided in § 33.38 of this subchapter, and the

time when action may be taken thereon may be not less than five days after the date of last insertion. If the proposed reassessment is set aside and a new apportionment ordered, notice shall be given of the new apportionment in the manner stated in §§ 33.38 and 33.39 of this subchapter and action taken thereon as provided in § 33.39 and this section.

(Ord. 93-03, passed 3-8-93)

§ 33.41 REASSESSMENT ORDINANCE.

When the Council has determined what in its judgement is a fair, just and reasonable reassessment, it shall pass an ordinance setting out and making the reassessment. The reassessment so made shall be deemed to be regular, correct, valid and just, except as it may be modified under §§ 33.42 and 44.43 of this subchapter.

(Ord. 93-03, passed 3-8-93)

§ 33.42 LIEN DOCKET ENTRY; CREDITING PRIOR PAYMENTS.

When the reassessment is duly made it shall be entered in the city lien docket. All provisions for bonding and paying by installments shall be applicable, and such city liens shall be enforced and collected in the manner provided for collection of liens for an original improvement. All sums paid upon the former assessment or any previous reassessment shall be credited to the property on account of which it was paid and as of the date of payment.

(Ord. 93-03, passed 3-8-93)

§ 33.43 RIGHT OF PURCHASER AT SALE UNDER PRIOR ASSESSMENT.

In cases where a sale was made under the original assessment or any previous reassessment, with reference to such improvement, and the property was not redeemed from the sale, the purchaser at the sale is subrogated to the rights of the city with reference to the property upon such reassessment if the purchaser waives all penalties and interest, except such interest as may be provided for on the reassessment, and delivers up for cancellation any

certificate or other evidence of the sale. If a deed was issued at the sale, the grantee therein, his heirs, executors, administrators, successors or assigns, shall execute a deed of resale and quitclaim of all right, title and interest in the property under such sale to the owner of the property and deliver the deed to the recorder, so that the owner's title may be cleared of the sale. The Recorder shall act as escrow holder of such certificate or other evidence of sale and of such deed pending completion of reassessment. If the reassessment is not completed, he shall return the certificate or other evidence of sale and the deed to the person delivering it to him. If the reassessment is completed, the certificate or other evidence of sale shall be canceled and placed on file in the office of the Recorder and the deed shall be delivered to the owner of the property specified therein. If any such purchaser, his heirs, executors, administrators, successors or assigns fails to comply with this section, he is not entitled to subrogation. In any event, the amount of subrogation shall not exceed the amount which has been paid to the city on such sale, together with interest at the rate established under this subchapter from the date of sale until the date of payment. This amount is to be paid by the city to the purchaser, his heirs, executors, administrators, successors or assigns if and when the city collects the amount of the reassessment against the property.
(Ord. 93-03, passed 3-8-93)

§ 33.44 REVIEW OF REASSESSMENT.

Notwithstanding any of the provisions of §§ 33.35 through 33.45 of this subchapter, owners of any property against which a reassessment for local improvements has been imposed may seek a review thereof under the provisions of state law.
(Ord. 93-03, passed 3-8-93)

§ 33.45 TIME LIMITATION FOR REASSESSMENT PROCEDURE.

No proceedings for making a reassessment shall be instituted after 20 years from the date when the first assessment was entered on the lien docket.
(Ord. 93-03, passed 3-8-93)

§ 33.46 MUNICIPAL BONDS ACCEPTED AS PAYMENT FOR ASSESSMENT LIENS.

General obligation bonds or interest coupons attached, or both, of the city are authorized for payment of all or any part of local improvement district liens, interest or penalties of or payable to the city.
(Ord. 93-03, passed 3-8-93)

§ 33.47 ASSESSMENT OF PUBLIC PROPERTY BENEFITTED BY IMPROVEMENTS.

(A) Whenever all or any part of the cost of public improvements is to be assessed to the property benefitted thereby, benefitted property owned by the city, county, school districts, state and any political subdivision thereof shall be assessed in the same as private property and the amount of the assessment shall be paid by the city, school districts, county or state, as the case may be, provided that the costs of the improvements are, in any given case, of the type that may be bonded under this subchapter.

(B) In the case of property owned by the state, the amount of the assessment shall be certified by the City Treasurer and filed with the executive department as a claim for reference to the legislative assembly in the manner provided by state law unless funds for the payment of the assessment have been otherwise provided by law.
(Ord. 93-03, passed 3-8-93)

§ 33.48 PUBLIC ROADS INCLUDED IN SIDEWALK IMPROVEMENT DISTRICT.

The city, in addition to powers granted by law or Charter, may include in any sidewalk improvement district within the city all county roads or state highways or any part thereof which are located within the improvement district. It may cause to be built on the county roads or state highways or portions thereof within the improvement district, sidewalks for pedestrian travel, and may assess the cost thereof upon the property benefitted thereby, in the manner

provided by the Oregon constitution, state laws, City Charter and/or this subchapter.
(Ord. 93-03, passed 3-8-93)

§ 33.49 ABANDONMENT OF PROCEEDINGS.

The Council shall have full power and authority to abandon and rescind proceedings for improvements undertaken hereunder at any time prior to the final consummation of such proceedings. If liens have been assessed upon any property under this procedure, they shall be canceled, and any payments made thereon shall be refunded to the payor, his assigns, or legal representatives.
(Ord. 93-03, passed 3-8-93)

§ 33.50 CURATIVE PROVISION.

No improvement assessment shall be invalid by reason of a failure to give, in any report, on the proposed assessment, in the assessment ordinance, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot or other 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 hereinabove specified, unless it appears that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the City Council shall have power and authority to remedy and correct all such matters by suitable actions and proceedings.
(Ord. 93-03, passed 3-8-93)

§ 33.51 SPECIAL PROVISIONS FOR SANITARY AND STORM SEWERS.

The Council finds that it is necessary for the public health, welfare and safety and the individual property owner(s) have failed to meet routine obligations of owners that a sanitary or storm sewer, or both, be constructed in an area within the city, the city shall, to the extent allowed by the Oregon constitution and state laws, proceed to form an improvement district and construct the improvements as provided in this subchapter whether or not such an

improvement district has previously been rejected at any time by remonstrances. Property owners shall have no right of remonstrance. Those parts of this subchapter which are in conflict with this section shall not apply.

(Ord. 93-03, passed 3-8-93)

§ 33.52 APPORTIONMENT OF LOCAL IMPROVEMENT DISTRICT ASSESSMENTS.

The city shall apportion a local improvement district assessment imposed upon a single tract or parcel of real property among all the parcels formed from a subsequent partition or other division of that tract or parcel provided that the following conditions are met:

(A) That the subsequent partition or division is in accordance with O.R.S. 92.101 to O.R.S. 92.160 and is consistent with all applicable comprehensive plans as acknowledged by the Land Conservation and Development Commission.

(B) That the proportionate distribution of local improvement district assessment shall use the same criteria for distribution as the original assessment.

(C) That the city has been requested to make such local improvement district assessment by an owner, mortgagee, or lien holder of a parcel of real property that was formed from the partition or other division of the larger tract of real property against which the local improvement district assessment was originally levied.

(1) The city shall not apportion the local improvement district assessment unless the applicant files a true copy of the deed, mortgage or instrument evidencing the applicant's ownership or other interest in the parcel; or

(2) The applicant supplies the city with the recording data necessary for the city to find such deed, mortgage or other instrument evidencing the applicant's ownership or other interest in the parcel in the Clatsop County Deed Records.

(D) Payment of \$75 per proposed assessed parcel, to cover administrative costs of the transaction.

(1) The description of each parcel of real property affected by the apportionment.

(2) The amount of the assessment levied against each parcel.

(3) The owner of each parcel.

(4) Such additional information as the city may require to keep a permanent and complete record of the assessments and the payments thereon.
(Ord. 93-03, passed 3-8-93)

REIMBURSEMENT IMPROVEMENT DISTRICT

§ 33.70 PURPOSE.

The purpose of this subchapter is to provide a mechanism where property owners who benefit from the construction of public improvements by another person or the city will share in the cost of those improvements through payment of a reimbursement fee at the time of connection or initiation of development activity that would otherwise require extension of public utilities and transportation improvements based upon the Seaside Code of Ordinances. This subchapter provides a mechanism for the city to examine the improvements which are constructed, their cost, and the properties which are specially benefited by them, and will provide a reasonable method of apportioning the reimbursable costs among benefited property owners. The purpose of this subchapter of the Seaside Code of Ordinances is to ensure that development pays for its share of benefits.

(Ord. 2006-02, passed 2-27-06)

§ 33.71 DEFINITIONS.

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. A person, as defined below, who is required or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the city for reimbursement for the expense of the improvement. The ***APPLICANT*** may be the city.

CITY. The City of Seaside.

FRONT FOOTAGE. The linear footage of a lot or parcel owned by an intervening property owner which is served by a reimbursement district public improvement and on which the intervening property owner's portion of the reimbursement is calculated. ***FRONT FOOTAGE*** shall be the amount shown on the most recent County Tax Assessor maps for the intervening property or, in the event such information is not available, any other reasonable method established by the Public Works Director for calculating front footage. ***FRONT FOOTAGE*** excludes the front footage of property owned by the city, including rights-of-way, but includes the development.

PARCEL OF LAND or PARCEL. A platted lot or any other tract of land which is occupied or may be occupied by a structure or structures or other use, including the yard and other open spaces required under the Seaside Code of Ordinances, or reasonably attributable to an existing or proposed use.

PERSON. A natural person, the person's heirs, executors, administrators, or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent employee or any representative thereof.

PUBLIC IMPROVEMENT. Any construction, reconstruction or upgrading of a water, sanitary sewer or storm sewer line, public street (including bicycle lanes) or sidewalk or under-grounding of public utilities.

PUBLIC WORKS DIRECTOR. The person holding the position of City Public Works Director or any officer or employee designated by that person to perform duties stated within this chapter.

REIMBURSEMENT AGREEMENT. The agreement between an applicant and the city which is authorized by the City Council and executed by the City Manager, providing for the installation of and payment for reimbursement district public improvements.

REIMBURSEMENT DISTRICT. The area which is determined by the City Council to derive a benefit from the construction of a street, water or sewer improvements, financed in whole or in part by the applicant and includes property which has the opportunity to utilize such an improvement.

REIMBURSEMENT FEE. The fee required to be paid by a resolution of the City Council and the reimbursement agreement. The City Council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursement from the applicant for financing the construction of a street, water or sewer improvement within the reimbursement district.

SEWER IMPROVEMENT. A sewer line improvement conforming with standards in the Seaside Code of Ordinances and including but not limited to extending a sewer line to property, other than property owned by the applicant, so that sewer service can be provided for such other property without further extension of the line.

SQUARE FOOTAGE. The square footage of a lot or parcel owned by an intervening property owner which is served by a reimbursement district public improvement and on which the intervening property owner's portion of the reimbursement is calculated. **SQUARE FOOTAGE** shall be the amount shown on the most recent County Tax Assessor maps for the intervening property or, in the event such information is not available, any other reasonable method established by the Public Works Director for calculating square footage. **SQUARE FOOTAGE** excludes the square footage of property owned by the city, including rights-of-way, but includes the development.

STREET IMPROVEMENT. A street or street improvement conforming with standards in the Seaside Code of Ordinances and including but not limited to streets, storm drains, curbs gutters, sidewalks, bike paths, traffic control devices, street trees, lights and signs and public right-of-way.

UTILIZE. To apply for a building permit which will use or increase the use of a public improvement, to connect to a public improvement, or to otherwise increase the use of an improvement.

WATER IMPROVEMENT. A water or water line improvement conforming with standards in the Seaside Code of Ordinances and including this subchapter but not limited to extending a water line to property, other than property owned by the applicant, so that water service can be provided for such other property without further extension of the line. (Ord. 2006-02, passed 2-27-06)

§ 33.72 APPLICATION FOR A REIMBURSEMENT DISTRICT.

(A) Any person who is required to or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide

service to property, other than property owned by the person, may, by written application filed with the Public Works Director, request that the city establish a reimbursement district. The street, water and sewer improvements must include improvements in a size greater than those which would otherwise ordinarily be required in a connection with an application for permit approval or must be available to provide service to property other than property owned by the applicant. Examples include but shall not be limited to full street improvements instead of half street improvements, off-site sidewalks, and connection of street sections for continuity, extension of water lines and extensions of sewer lines. The city may also initiate formation of a reimbursement district. The application shall be accompanied by a fee, as established by resolution, sufficient to cover the cost of administrative review and noticed pursuant to this subchapter.

(B) The application shall include the following:

(1) A description of the location, type, size, and cost of the public improvement to be eligible for reimbursement.

(2) A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage or square footage of said properties, or similar data necessary for calculating the apportionment of the cost; and the property or properties owned by the applicant.

(3) *Pre-construction.* The estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials, or other evidence satisfactory to the Public Works Director, and the estimated date of completion of the public improvements.

(4) *Post-construction.* The actual cost of the improvements as evidenced by receipts, invoices or other similar documents including as-built plans, and the date the city accepted the public improvements.

(C) The application may be submitted to the city prior to the installation of the public improvements but not later than 180 days after completion and acceptance of the street, water or sewer improvements. However, the Public Works Director may waive this requirement upon the showing by the applicant of good cause for the delay, that the delay was not created by the applicant, and that the delay was unavoidable due to unanticipated or unforeseen circumstances.

(Ord. 2006-02, passed 2-27-06)

§ 33.73 PUBLIC WORKS DIRECTOR REPORT.

The Public Works Director shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Public Works Director may require the submittal of other relevant information from the applicant in order to assist in the evaluation. The Public Works Director shall prepare a written report for the City Council, considering and making recommendations concerning the following factors:

(A) Whether the applicant will finance or has financed some or all of the cost of a street, water or sewer improvement thereby making service available to property, other than property owned by the applicant.

(B) A map of the area to be included in the reimbursement district.

(C) The actual or estimated cost of the street, water or sewer improvements within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed for each improvement.

(D) A methodology for spreading the cost among the parcels within the reimbursement district and where appropriate defining a "unit" for applying the reimbursement fee to property which may, with city approval, be partitioned, altered, modified, or subdivided at some future date. The methodology

should include consideration of 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 Public Works Director. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location.

(E) The reimbursement fee shall be adjusted annually beginning on the first anniversary of the date of the reimbursement agreement as a return on the investment for the person or the city. The annual fee adjustment shall be fixed and determined by the Council and computed against the reimbursement fee as simple interest and will not compound. The City Manager may take into account the documented cost any financing, including prepayment points, prepayment-penalties, loan fees, and the actual percentage rate of interest being paid by the applicant, when recommending the annual fee adjustment to the City Council.

(F) The amount to be charged by the city for administration of the agreement, the administration fee shall be fixed by the City Council and will be included in the resolution approving and forming the reimbursement district. The administration fee is due and payable to the city at the time the agreement is signed.

(G) The period of time that the reimbursement exists.

(H) Whether the street, water and sewer improvements will or have met city standards.
(Ord. 2006-02, passed 2-27-06)

§ 33.74 AMOUNT TO BE REIMBURSED.

(A) The cost to be reimbursed to the applicant shall be limited to the cost of construction, including the acquisition and condemnation costs of acquiring

additional right-of-way, the cost of permits, engineering and legal expenses, and the annual fee adjustment fixed and determined by the City Council.

(B) A reimbursement fee shall be computed by the city for all properties which have the opportunity to utilize the improvements, including the property of the applicant for formation of a reimbursement district. The fee shall be calculated separately for each type of improvement. The applicant for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for the property of the applicant.

(Ord. 2006-02, passed 2-27-06)

§ 33.75 PUBLIC HEARING.

(A) If a reimbursement district is formed prior to construction of the improvement(s), a second public hearing shall be held after the improvement has been accepted by the city. At that time, the City Council may modify the resolution to reflect the actual cost of the improvement(s).

(B) Within a reasonable time after the Public Works Director has completed the report required in § 33.73, the City Council shall hold public hearing in which any person shall be given the opportunity to comment on the proposed reimbursement district. Because formation of the reimbursement district does not result in assessment against property or a lien against property, the public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The City Council has the sole discretion after the public hearing to decide whether a resolution approving and forming the reimbursement district shall be adopted.
(Ord. 2006-02, passed 2-27-06)

§ 33.76 NOTICE OF PUBLIC HEARING.

Not less than ten nor more than 30 days prior to any public hearing held pursuant to this subchapter,

the applicant and all owners of property within the proposed district shall be notified of such hearing and the purpose thereof. If notification is accomplished by mail, notice shall be mailed not less than 13 days prior to the hearing. Notice shall be deemed effective on the date that the letter of notification is mailed. Failure of the applicant or any affected property owner to be so notified shall not invalidate or otherwise affect any reimbursement district resolution or the City Council's action to approve the same.

(Ord. 2006-02, passed 2-27-06)

§ 33.77 CITY COUNCIL ACTION.

(A) After the public hearing held pursuant to § 33.75(B), the City Council shall approve, reject or modify the recommendations contained in the Public Works Director's report. The City Council's decision shall be embodied in a resolution. If a reimbursement district is established, the resolution shall include the Public Works Director's report as approved or modified, and specify that payment of the reimbursement fee, as designated for each parcel, is a precondition of receiving city permits applicable to development of that parcel as provided for in § 33.81.

(B) When the applicant is other than the city, the resolution shall instruct the City Manager on behalf of the city to enter into an agreement with the applicant pertaining to the reimbursement district improvement. If the agreement is entered into prior to construction, the agreement shall be contingent upon the improvements being accepted by the city. The agreement, at a minimum, shall contain the following provisions:

(1) The public improvement(s) shall meet all applicable city standards.

(2) The total amount of potential reimbursement to the applicant.

(3) The total amount of potential reimbursement shall not exceed the actual cost of the public improvement(s).

(4) The annual fee adjustment set by the City Council.

(5) The applicant shall guarantee the public improvement(s) for a period of 12 months after the date of installation.

(6) The applicant shall defend, indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to the city's establishment of the district.

(7) The applicant shall acknowledge that the city is not obligated to collect the reimbursement fee from affected property owners.

(8) Other provision as the City Council determines necessary and property to carry out the provisions of this subchapter.

(C) If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district.

(Ord. 2006-02, passed 2-27-06)

§ 33.78 NOTICE OF ADOPTION OF RESOLUTION.

The City shall notify all property owners within the district and the applicant of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, the date it was adopted and a short explanation when the property owner is obligated to pay the reimbursement fee and the amount of the fee.

(Ord. 2006-02, passed 2-27-06)

§ 33.79 RECORDING THE RESOLUTION.

The City Manager shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the County Clerk so as to

provide notice to potential purchasers of property within the district. The Recording shall not create a lien. Failure to make such recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee.

(Ord. 2006-02, passed 2-27-06)

§ 33.80 CONTESTING THE REIMBURSEMENT DISTRICT.

No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following the adoption of a resolution establishing a reimbursement district.

(Ord. 2006-02, passed 2-27-06)

§ 33.81 OBLIGATION TO PAY REIMBURSEMENT FEE.

(A) The applicant for a permit related to property within any reimbursement district shall pay to the city, in addition to any other applicable fees and charges, the reimbursement fee established by the City Council, together with the annual fee adjustment, if within the time specified in the resolution establishing the district, the person applies for and receives approval from the city for any of the following activities:

- (1) To apply for a building permit which will use or increase the use of a public improvement;
- (2) To connect to a public improvement or otherwise increase the use of a public improvement.

(B) **INCREASE THE USE** means:

- (1) For sanitary sewer or storm sewer lines: to make a physical change requiring a building or development permit on the intervening property which increases the volume discharged into the line.

(2) For water lines: to make a physical change requiring a building or development permit on the intervening property which increases the amount of water used.

(3) For public streets: to make a physical change requiring a building or development permit on the intervening property which increases the trips on the street or creates a new entrance onto the street.

(C) The city's determination of who shall pay the reimbursement fee is final. Neither the city nor any officer or employee of the city shall be liable for a payment of any reimbursement fee, annual fee adjustment, or portion thereof as a result of this determination.

(D) A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvements, regardless of whether access is taken or provided directly onto such street at any time. Nothing in this subchapter is intended to modify or limit the authority of the city to provide or require access management.

(E) No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. No permit shall be issued for any of the activities listed in § 33.81(A) unless the reimbursement fee, together with the annual fee adjustment, has been paid in full. Where approval is given as specified in § 33.81(A) but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.

(F) The date when the right of reimbursement ends shall not extend beyond five years from the district formation date. Upon application for an extension by the applicant, the City Council may, by resolution, authorize up to two five-year extensions of the right of reimbursement under the agreement.

(G) The reimbursement fee is immediately due and payable to the city by intervening property owners upon utilization of public improvement. If connection is made or construction commenced without required city permits, then the reimbursement fee is immediately due and payable upon the earliest date that any such permit was required. No city permit of any kind for the intervening property shall be issued until the reimbursement fee is paid in full.

(H) Whenever the full reimbursement fee has not been paid and collected for any reason after it is due, the City Manager shall report to the City Council the amount of the uncollected reimbursement, the legal description of the intervening property on which the reimbursement is due, the date upon which the reimbursement was due and the intervening property owner's name or names. The City Council shall then, by motion, set a public hearing date and direct the City Manager to give notice of that hearing to each of the identified intervening property owners, together with a copy of the Finance Director's report concerning the unpaid reimbursement fee. Such notice may be either by certified mail or personal service. At the public hearing, the City Council may accept, reject or modify the City Manager's report. If the City Council accepts or rejects the City Manager's report and determines that the reimbursement fee is due but has not been paid for whatever reason, the city may take any action including all legal or equitable means necessary to collect the unpaid amount and shall recover its attorney's fees and related court costs. An unpaid reimbursement fee shall prohibit any issuance of permits by the city for the intervening property.
(Ord. 2006-02, passed 2-27-06)

§ 33.82 PUBLIC IMPROVEMENTS.

Public improvements installed pursuant to reimbursement district agreements shall become and remain the sole property of the city.
(Ord. 2006-02, passed 2-27-06)

§ 33.83 MULTIPLE PUBLIC IMPROVEMENTS.

More than one public improvement may be the subject of a reimbursement district.
(Ord. 2006-02, passed 2-27-06)

§ 33.84 COLLECTION AND PAYMENT; OTHER FEES AND CHARGES.

(A) Developers shall receive all reimbursement collected by the city for their public improvements. Such reimbursement shall be delivered to the developer for as long as the reimbursement district agreement is in effect. Such payments shall be made by the city within 90 days of receipt of the reimbursements.

(B) The reimbursement fee is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the city.

(C) In order to insure reimbursement payments are made to the developer, it is the responsibility of the developer to supply the city with current contact information. Failure to provide current contact information may delay payment or cause forfeiture of payment. The city shall not accrue interest on payments received for developers.
(Ord. 2006-02, passed 2-27-06)

CHAPTER 34: CITY POLICY

Section

- 34.01 Trial by jury; selecting jurors
- 34.02 Disposition of unclaimed property
- 34.03 Fees for services
- 34.04 Policies, procedures and fees for Community Center Building
- 34.05 State records retention schedule adopted
- 34.06 Distribution of franchise fees

(E) *Conduct of trials.* Trials shall be conducted as trials in justice courts, and the rules of evidence shall be the same as in state courts and shall include applicable statutes of the State of Oregon regarding the introduction or admission of evidence.

(F) *Payment of jurors.* Those jurors notified and who appear at trial shall receive compensation from the city in the amount of \$10 for each day of attendance upon the municipal court.

§ 34.01 TRIAL BY JURY; SELECTING JURORS.

(A) *Right to trial by jury.* Every person charged with any offense defined and made punishable by imprisonment by the City Charter or any ordinance of the city or state law shall have the right to trial by jury.

(B) *Number of jurors.* The jury shall consist of six persons duly sworn to try the cause for which they are called, and the jurors shall be selected as hereinafter provided.

(C) *Term of court.* The terms of municipal court shall be for a period of four months, beginning on January 1, May 1, and September 1, of each year, following passage of this chapter.

(D) *Jury panel.* The jury panel for each term shall be selected prior to the first day of each term of court. The Court Clerk shall select 25 names of persons from the list of registered voters to serve as a jury panel until the next panel is selected. The Court Clerk, in preparing the jury panel, shall place thereon only those names of persons who are known or believed to be possessed of the qualifications prescribed in, and not entitled to exemption as provided in, O.R.S. 10.030.

(G) *Powers of the municipal judge.* The municipal judge shall have all inherent and statutory powers and duties of a justice of the peace within the jurisdictional limits of the city. The Chief of Police shall assist the judge in the serving of subpoenas, notices of jury duty, and such other orders of the court necessary for the proper conduct thereof. The municipal judge may hold any prospective juror who disregards the notice of jury duty in contempt of court, and may punish said juror by a fine of not more than \$100, or by imprisonment in the city jail for not more than 50 days, or both.

(Ord. 90-10, passed 4-23-90)

§ 34.02 DISPOSITION OF UNCLAIMED PROPERTY.

(A) *Unclaimed property.*

(1) It shall be the duty of the Police Department, whenever personal property other than motor vehicles shall be found abandoned upon the streets of the city, or be found without an owner claiming the same, or shall, by reason of arrest or in any other manner, come into the hands of the Police Department without a claimant, to store the same with some reputable storage yard, garage, or other storage place pending investigation into the ownership of said personal property.

(2) The officers of the police force, upon finding personal property, or coming into possession of the same, shall make diligent inquiry of all available persons as to the name and address of the owner, conditional vendor, or mortgagee, or any other person interested therein, and shall examine the personal property for serial number, make and style, and for any other information which will aid in the identification of such personal property, and in the identification of the owner, conditional vendor, mortgagee, or other interested person.

(B) *Notice of sale.*

(1) If the owner or the conditional vendor of property, excepting guns, referred to in this chapter, or the mortgagee, or other person interested be found and identified, such person shall be immediately notified by registered letter that the personal property is held by the Police Department of the city and will be sold at public auction to the highest bidder for cash, or that such property may be converted to public use by the city, which sale or conversion to public use shall not be held or take place until ten days have elapsed from the date of the mailing of the registered notice.

(2) If, after 60 days from the day the personal property, excepting guns, referred to in this chapter shall come into the possession of the city, the owner, conditional vendor, mortgagee, or other person interested cannot be found after reasonable effort to identify and notify as set out in this chapter, then the Chief of Police, or his designee shall cause to be published in a newspaper published in the county, a notice providing the information of the proposed by a third party electronic online sales provider or conversion to public use. The notice shall be published two times, the first publication not less than ten days before, and the second notice not less than three days before such sale or conversion to public use. If the Chief of Police chooses to utilize Oregon State's Department of Administrative Services as the auction mechanism, no public notices of sale

will be published. If conversion to public use is contemplated or intended, such conversion to public use shall be specifically indicated in the publication notice.

(C) *Application for return of property.* If the owner, conditional vendor, mortgagee, or other person interested shall apply to the Chief of Police before a sale shall have taken place, for the return of the personal property, and shall submit to the Chief of Police satisfactory evidence of his interest therein, and shall tender with the application the costs in the seizing, keeping, and making sale of said personal property, the Chief of Police, upon being satisfied that the claim is rightful, shall surrender the same to the claimant.

(D) *Sale or conversion.* If no claim shall have been made before the date set for the sale or conversion of the personal property, excepting guns, under this article, the Chief of Police or his designee shall, prepare the property for transfer to a third party electronic online sales provider of the city's choice for sale individually or in groups of items to the highest bidder. The third party electronic online sales provider shall provide the city with copies of items sold, the selling price, and proceeds from those sales in accordance with the contract between the city and the third party electronic online sales provider.

(1) *Donation.* The city may donate unclaimed property to any organization operating within or providing a service to residents of the city which is recognized by the Internal Revenue Service as an organization described in Section 501(C)(3) of the Internal Revenue Code of 1986, as amended.

(2) *Disposal of property with minimal value.* Unclaimed property which has a value of less than \$500, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the value of the item and the manner of disposal.

(E) *Bill of sale.* Upon the completion of the sale under division (D) of this section, the Chief of Police shall make and execute on behalf of and in the name of the city, a bill of sale signed by himself as Chief of Police of the city, conveying the property and bill of sale in question to the purchaser.

(F) *Proceeds.* All of the sales as set out in division (D) of this section shall go to the general fund of the city.

(G) *Sale of converted property.* Property which has been converted to public use as set out in division (D) may thereafter be sold in such a manner as may seem appropriate by the Chief of Police.

(H) *Duties of Chief of Police.* Any duties herein prescribed may be performed by the Chief of Police or his designee.

(I) *Unclaimed guns.*

(1) As used in this section the term *GUN* shall include any firearm, rifle, shotgun, revolver, pistol, air gun, air rifle, or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of an explosive, gas, compressed air, spring or elastic material.

(2) If the owner, conditional vendor, mortgagee interested in an unclaimed gun can be found and identified, such person shall immediately be notified, following procedures set out in division (B)(1) that the gun is held by the Police Department of the city and will be sold, destroyed, or converted to public use.

(3) If, after 60 days from the date a gun comes into the possession of the Police Department, the owner, conditional vendor, mortgagee cannot be found, sale, trade, conversion, or destruction of guns shall follow procedures as set out in division (D), with certain exceptions or restrictions as set out below:

(a) Only licensed gun dealers and law enforcement agencies shall be qualified bidders at such sale or trade. The city may offer for sale or trade the property provided the trade with a licensed gun dealer or law enforcement meets federal or state

(b) The city may set a minimum bid on the guns, in which case if no bid meets the minimum bid, the city may convert the guns to public use, or for disposal at a later date.

(c) The city may convert the guns to public use if such use appears to be in the public interest.

(d) A written record of such conversion to public use shall be kept with the unclaimed property sale records.

(e) The city may destroy any converted gun. A written record of the destruction shall be kept with the unclaimed property sale records. (Ord. 95-10, passed 3-13-95; Am. Ord. 2001-07, passed 7-23-01; Am. Ord. 2003-10, passed 9-22-03; Am. Ord. 2006-03, passed 2-27-06)

Cross-reference:

Abandoned vehicles, see Chapter 99

§ 34.03 FEES FOR SERVICES.

Fees for services under this section shall be those rates adopted by Council by resolution. The Council shall establish, and as considered necessary from time to time, change the fees by resolution after public hearing.

(Ord. 94-09, passed 5-23-94; Am. Ord. 2004-02, passed 5-11-04)



**§ 34.04 POLICIES, PROCEDURES AND FEES
FOR COMMUNITY CENTER BUILDING.**

(A) *Definitions of groups.*

(1) *Group 1.* Sunset Empire Park and Recreation District and governmental agencies serving Clatsop County; and groups qualifying for sponsorship by the above. To qualify for Group 1 under S.E.P and R.D. group must:

(a) Be open to the public

(b) Participate in a District function as a volunteer group; or the potential to charge a small user fee

(2) *Group 2.* City resident, non-profit, civic, social, religious, service and youth organizations.

(3) *Group 3.* City resident who has a commercial (business) and is profit making.

(4) *Group 4.* Non-resident, non-profit, civic, social, religious, service and youth organizations with paid or non-paid management, or individuals.

(5) *Group 5.* Non-resident who has a commercial (business) that is profit-making.

(6) Non-profit or for profit groups which provide necessary services to seniors, youth and the community.

(B) In order to qualify as a non-profit corporation an organization must be registered as a 501(c)(3) with the Internal Revenue Service or have a constitution or by-laws which clearly state the objective to be non-profit, non-commercial in nature. Proof of such status may be required. Fees may be reduced at management's discretion. Usage is subject to management approval based upon previous usage, facility availability and priority as established by policy.

(C) *Fee schedule.* The following fee schedule is not intended to be used in place of nor in lieu of ad valorem taxes.

Seaside - Administration

<i>Facility</i>	<i>Group 1</i>	<i>Group 2*</i>	<i>Group 3 and 4</i>	<i>Group 5</i>	<i>Group 6</i>
Hall Only	0	\$15 per use	\$30 per hour (min. 2 hr.)	\$50 per hour (min. 2 hr.)	\$25 per use
Backroom Only	0	\$15 per use	\$20 per hour	\$30	\$15 per use
Kitchen	0	\$10 per use	\$20 per hour	\$30	\$15 per use
Meeting Room 1	0	\$10 per use	\$20 per hour	\$30	\$15 per use
Meeting Room 2	0	\$10 per use	\$20 per hour	\$30	\$15 per use
<p>* \$15 per hour staffing fee during nonoperational hours (currently Monday - Friday after 5:00 pm; and weekends). Additional staff may be required if alcohol is served or for large groups.</p> <ul style="list-style-type: none"> - Fees apply to operational building hours. Additional staffing fees will be charged for use during non-operational building hours. Holiday rentals will include employee overtime fees. - Concessions and full service meals are available with any rental use of the building. Fees vary according to requests. - Coffee and tea service available with any rental: includes set up, clean-up, cups, sugar, creamer, spoons. <ul style="list-style-type: none"> 12 cup pot: \$ 4.00 30 cup pot: \$10.00 100 cup pot: \$35.00 - Alcohol use: Any alcohol use must follow our OLCC requirements which include but are not limited to: a certified OLCC handler, no alcohol brought in or taken out of building during event, no sales of alcohol. Alcohol must be in a designated area if minors are present. For parties over 25 persons a fee may be charged outside the rental fee for additional staff. - Tobacco and illegal drug use are strictly prohibited. - Support staff: Rentals over 100 will require an additional staff person outside of the rental fee. - Cleaning/security deposit: A \$60 deposit will be required of all groups due ten days in advance. Deposits will be refunded only if conditions outlined under general rules are met. Deposit is per use regardless of the number of hours. Multiple-use applicants may make a single annual cleaning deposit. Deposit will be held for 48 hours after rental period. Users shall be responsible for leaving the building as described under the policies/procedures. Users will be billed for the costs of janitorial services or any necessary repairs. - Damage and inventory loss deposit: For rental use by groups that are over 100 and or serving alcohol, a \$250 cash or certified check deposit will be required. Conditions for refund are the same as stated in the cleaning/security deposit clause. - Failure to follow these guidelines will result in closing of your activity, non-refund of deposits and denial of future use. 					

(D) *Policy and procedures.* Community Center Policies and Procedures are hereby adopted. (Ord. 97-03, passed 6-23-97; Am. Ord. 2002-11, passed 8-13-02; Am. Ord. 2012-06, passed 6-25-12)

**§ 34.05 STATE RECORDS RETENTION
SCHEDULE ADOPTED.**

The City Council hereby adopts the Oregon State Archives Division General Records Retention Schedule for the Cities of Oregon, as the city's minimum records retention schedule, in accordance with Archives division Oregon Administrative Rules and General Records Retention Schedule for the Cities of Oregon, and all subsequent revisions. (Ord. 98-13, passed 7-13-98)

§ 34.06 DISTRIBUTION OF FRANCHISE FEES.

(A) All Franchise fees collected from Pacific Power, Ordinance No. 79-5; Falcon Cable, Ordinance No. 84-32 (Cox Cablevision Corp.); Northwest Natural Gas, Ordinance No. 85-29; U.S. West Communications, Ordinance No. 91-18; and Sunset Refuse and Recycling Service, Ordinance No. 99-15, shall be dedicated to the Public Works Fund.

(B) Franchise fees owed for the period beginning July 1, 1998, shall be distributed in accordance with this section. (Ord. 98-15, passed 7-27-98; Am. Ord. 99-15, passed 9-27-99; Am. Ord. 2001-13, passed 11-13-01)



CHAPTER 35: ALCOHOLIC BEVERAGE LICENSES

Section

35.01	Purpose	conduct a background investigation based on the
35.02	Application fee	criteria in § 35.05 and report to the City Manager on
35.03	Investigation of applications	the application.
35.04	Application recommendation authority	(Ord. 2001-10, passed 10-8-01)
35.05	OLCC consideration procedures	

§ 35.01 PURPOSE.

The purpose of this chapter is to establish the principal criteria which shall be considered by the Council in making recommendations to the Oregon Liquor Control Commission (OLCC) concerning the granting, denying, modifying or renewing of all liquor licenses within the city limits and to establish a fair, effective and efficient process to be utilized for the investigation of liquor license applicants for the purpose of making such recommendations.
(Ord. 2001-10, passed 10-8-01)

§ 35.02 APPLICATION FEE.

Because the processing of applications entails the expense of investigating the qualifications of the applicants, every application for any type of alcoholic beverage license shall be accompanied by a fee of \$25 made payable to the City of Seaside.
(Ord. 2001-10, passed 10-8-01)

§ 35.03 INVESTIGATION OF APPLICATIONS.

The City Manager shall coordinate and conduct an investigation of each application for the purpose of determining what recommendation shall be made by the city to the OLCC. The City Manager may provide a copy of an application to the Police Department in order that the Police Department will

§ 35.04 APPLICATION RECOMMENDATION AUTHORITY.

The City Council, as the governing body of the city, is the authority to make liquor license recommendations to OLCC based on the conditions in § 35.05.
(Ord. 2001-10, passed 10-8-01)

§ 35.05 OLCC CONSIDERATION PROCEDURES.

The City Council, after consideration, may determine to make a favorable, unfavorable, conditionally favorable or no recommendation to the OLCC. If the City Council makes an unfavorable or conditionally favorable recommendation to the OLCC regarding any application for liquor license, the recommendation will be based on a finding the one or more of the following conditions exist:

(A) There is a history or pattern of illegal or disorderly activity on the premises.

(B) There have been disturbances and/or other problems (such as fights, altercations, drug dealing by patrons, furnishing alcohol to minors by patrons, public drunkenness, alcohol related litter, etc.) related to the exercise of the applicant's alcohol license privilege and the applicant has failed to take reasonable and timely corrective action when notified of these problems by the police or the OLCC.

(C) There is a continuing problem of noise from this business disturbing neighbors.

(D) The applicant would be a poor risk for compliance with liquor laws, as indicated by a felony conviction, which reflects on the applicant's ability to be a responsible liquor licensee.

(E) The applicant would be a poor risk for compliance with liquor laws, as indicated by a failure to comply with liquor laws.

(F) The applicant has a history of abusing alcohol or other controlled substances and would be a poor risk for compliance with liquor laws.

(G) The applicant has made an intentional and materially false statement about a matter that reflects on the applicant's ability to comply with the state's liquor laws.

(H) An unlicensable person or a party not named as applicant has an ownership interest in the business to be licensed.

(I) The applicant has failed to operate as originally proposed to the City Council, the original proposal having been a deciding factor in the Council's favorable recommendation to the OLCC.

(J) The applicant has expanded the boundaries of the licensed premises to areas not originally considered by the Council and without city and OLCC approval.

(K) The business is located within 500 feet of a school, child care facility, church, hospital, nursing or convalescent care facility, a park or child oriented recreation facility, or an alcohol and other drug treatment facility and there is evidence that the business will adversely impact the facility.

(Ord. 2001-10, passed 10-8-01)