

ORDINANCE NO. 1774

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON AMENDING CHAPTER 13.28, CAPITAL IMPROVEMENTS, OF THE MILWAUKIE MUNICIPAL CODE.

WHEREAS, the 1993 legislature amended ORS Chapter 223; and,

WHEREAS, the City finds that the same amendments should be made to Milwaukie Municipal Code Chapter 13.28; now, therefore:

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Section 13.28.030(H) of the Milwaukie Municipal Code is amended to read as follows:

"Qualified public improvement" means a capital improvement that is required as a condition of development approval, identified in the plan adopted pursuant to Section 13.28.080 of this chapter and either:

1. Not located on or contiguous to a parcel of land that is the subject of the development approval; or
2. 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.

Section 2. Section 13.28.120 of the Milwaukie Municipal Code is amended to read as follows:

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

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

of such improvement that exceeds the City's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request for credit shall be filed in writing no later than 60 days after acceptance of the improvement by the City.

C. When establishing a 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. Credits shall not be transferable from one type of system development charge to another.

F. Credits shall be used within 10 years from the date the credit is given.

Section 3. Section 13.28.125 is added to the Milwaukie Municipal Code to read as follows:

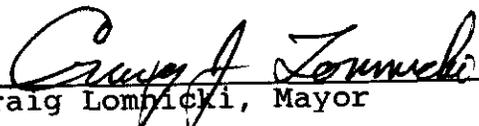
13.28.125 Notice.

The City shall maintain a list of persons who have made a written request for a methodology for any system development charge. 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, and the methodology supporting the adoption or amendment shall be available at least 30 days prior to the first hearing to adopt or amend. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the City. The City may periodically delete names from the list, but at least 30 days prior to removing a name from the list must notify the persons 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.

Read the first time on November 1, 1994 and moved to second reading by unanimous vote of the City Council.

Read the second time and adopted by the City Council on 11/1/94 .

Signed by the Mayor on November 1, 1994 .



Craig Lompicki, Mayor

ATTEST:



Pat DuVal, City Recorder

APPROVED AS TO FORM:



O'Donnell, Ramis, Crew, Corrigan & Bachrach

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