MYRTLE CREEK CITY COUNCIL
REGULAR COUNCIL MEETING AGENDA
MYRTLE CREEK COUNCIL CHAMBER

AGENDA PACKET 10/01/2024

All city public meetings are being digitally recorded for sound and video camera surveillance.

The City Council of the City of Myrtle Creek will meet on **Tuesday, October 01, 2024, at 5:30 PM** in the Myrtle Creek Council Chamber, 207 NW Pleasant Street, Myrtle Creek, Oregon.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for other accommodations for persons with disabilities, or for remote access should be made at least 48 hours in advance of the meeting to the City Recorder at 541-863-3171.

The City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the study session and or/meeting.

REGULAR COUNCIL MEETING – 5:30 PM

Anyone wishing to speak on an agenda item should complete a Public Comment Form and give it to the City Recorder. Public Comment Forms are located at the entrance to the meeting place. Anyone commenting on a subject not on the agenda will be called upon during the "Citizens Heard on Non-Agenda Items" section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the City Council.

1. **Call to Order/Roll Call**

2. **Pledge of Allegiance**

3. **Public Presentations –** *Items that do not require immediate council action, such as presentations, discussions of potential future action items.*

4. **Citizens Heard on Non-Agenda Items**

5. **Consent Agenda** – *Requires a motion*
   The consent agenda consists of items of a repeating or routine nature considered under a single action. Any Councilor may have an item on the consent agenda removed and considered separately upon request.
   5.1 Approval of minutes of the Regular City Council Meeting for September 17, 2024

6. **Regular Agenda**
   Citizens will be provided the opportunity to offer comments on action items after staff has

given their report and if there is an applicant, after they have had the opportunity to speak. Action items are expected to result in motions, resolutions, orders, or ordinances.
6.1 Resolution 24-24 – A Resolution Declaring City Owned Property Surplus and Disposing of Same

7. Public Hearing
Myrtle Creek Municipal Code Chapter 3 Amendments

8. Ordinances
Citizens will be provided the opportunity to offer comments on action items after staff has given their report and if there is an applicant, after they have had the opportunity to speak. Action items are expected to result in motions, resolutions, orders, or ordinances.
8.1 **Ordinance 860 – FIRST READ** – An Ordinance Amending the Myrtle Creek Municipal Code Chapter 3.05 Public Contracting and Repealing and Replacing Ordinance No. 854.
8.2 **Ordinance 861 – FIRST READ –** An Ordinance Amending the Myrtle Creek Municipal Code Chapter 3.15 Reimbursement Districts and Repealing and Replacing Ordinance No. 714.
8.3 **Ordinance 862 – FIRST READ –** An Ordinance Amending the Myrtle Creek Municipal Code Chapter 3.20 System Development Charges and Repealing and Replacing Ordinance No. 728 and Ordinance No. 704.
8.4 **Ordinance No. 863 – FIRST READ –** An Ordinance Amending the Myrtle Creek Municipal Code Chapter 3.25 Public Safety Fee and Repealing and Replacing Ordinance No. 847.
8.5 **Ordinance No. 864 – FIRST READ –** An Ordinance Amending the Myrtle Creek Municipal Code Chapter 3.30 Street Utility Fee and Repealing and Replacing Ordinance No. 10-003.

9. City Administrator Report

10. Mayor and Councilor – Committee Reports and Councilor Comments

11. Executive Session
The Myrtle Creek City Council will go into Executive Session Under ORS 192.660(2)(b). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 162.660 but may not disclose any information discussed. No Executive Sessions may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

12. Adjournment

CITY OF MYRTLE CREEK

REGULAR MEETING OF THE CITY COUNCIL

DATE:	September 17, 2024
PLACE:	Council Chambers, 207 NW Pleasant St., Myrtle Creek, Oregon
PRESIDING OFFICER:	Mayor Matthew Hald
COUNCILORS PRESENT:	Councilors: Luke Dillon, Diana Larson, Susan Harris, Bill Burnett, Robert Chaney, Sr.
COUNCILORS ABSENT:	
	A quorum was present throughout the meeting.
STAFF IN ATTENDANCE:	City Administrator Lonnie Rainville, City Recorder Joanna Bilbrey, Police Chief Jonathan Brewster, Fire Chief Manie Pires
CALL TO ORDER:	Mayor Matthew Hald called the September 17, 2024 meeting to order at 5:30 PM.

PUBLIC PRESENTATION
No public presentations were made.

CITIZENS HEARD ON NON-AGENDA ITEMS
Rick Held – Questions on spending approval process.

CONSENT AGENDA
Parts I & II

Motion was made by Councilor Harris and seconded by Councilor Larson to approve Consent Agenda Parts I & II as presented in the September 17, 2024, council packet. *Discussion: None*
Vote: Motion passed unanimously.

DEPARTMENT REPORTS
Planning Department
City Administrator Lonnie Rainville submitted the Community Development Report into record as written.

Finance Report
Finance Report submitted into record as written.

Police Department
Police Chief Jonathan Brewster submitted the Police Department report into record as written. Councilor Larson asked if we are getting some use out of the sobering center.

Fire Department
Fire Chief Manie Pires submitted the Fire Department report into record as written. Councilor Larson asked that a line be added to the Fire Department report listing electric vehicle fires. Fire Chief Manie Pires shared that he is looking into a new air compressor to fill their tanks. They are at a point that the repair costs are exceeding the cost of a new one.

Public Works
City Administrator Lonnie Rainville submitted the Public Works Report into record as written. Councilor Larson asked about the log jam in Myrtle Creek. The City was given permission to move the log jam, but not remove the material. The logs were moved to support the bank. Fire Chief Manie Pires thanked the Public Works Superintendent for his work on keeping up the fire hydrant maintenance.

REGULAR AGENDA

City Branding
Kernin Steinhauer, representative from Lotus Media Group, shared a presentation with Council on the process of creating a brand for the City of Myrtle Creek. The project title is Imagine Myrtle Creek, A Community Revitalization Effort.

Council consensus was to move forward with working with Lotus Media Group on a City Branding Project.

Fire Commission Appointments|
During review of the Myrtle Creek Municipal Code section 2.05 it was identified that code requires that there be a Board of Fire Commissioners made up of two councilors and the Fire Chief. The Board of Fire Commissioners is meant to be a bridge between the City Council and the Fire Department for sharing information.

Mayor Matthew Hald appointed Councilor Harris and Councilor Burnett to sit on the Board of Fire Commissioners.

Discussion on Updating Park Regulations
City Administrator Lonnie Rainville shared with Council information on the new park regulations that the City of Roseburg adopted. The Roseburg City Attorney found that the adopted park regulations infringed on the first amendment rights of individuals. The Roseburg City Council reoworded their Resolution and adopted a new one in Februray. Questions were asked about events being private, but

open to the public and how this would affect regulations. Councilor Chaney requested time for Council to review the information from Roseburg. A permit process was discussed that would require individuals to fill out a permit application if they would like to hand out materials within a city park. Council consensus was to continue to research language for a new Park Ordinance.

LOC Foundation Support Request

City Recorder Joanna Bilbrey presented to Council a donation request from the Leauge of Oregon Cities Foundation. The City of Myrtle Creek received several scholarships to the 2023 LOC Annual Conference from the Foundation and it was suggested that a donation be made to help other small city officials attend the conference.

Motion was made by Councilor Harris to donate $250 to the League of Oregon Cities Foundation. Motion was seconded by Councilor Burnett. *Discussion: None*
Vote: Motion passed unanimously.

RESOLUTIONS

City Recorder Joanna Bilbrey presented to Council three resolutions establishing liens on real properties for costs associated with

Resolution 24-21 – A Resolution Authorizing the City Recorder to Establish a Lien on Real Property for Failure to Abate Nuisances – 820 Bond Street
Resolution 24-22 – A Resolution Authorizing the City Recorder to Establish a Lien on Real Property for Failure to Abate Nuisances – 650 Riverside Drive
Resolution 24-22 – A Resolution Authorizing the City Recorder to Establish a Lien on Real Property for Failure to Abate Nuisances – 127 NW Division Street

Motion was made by Councilor Chaney to approve Resolution 24-21 – A Resolution Authorizing the City Recorder to Establish a Lien on Real Property for Failure to Abate Nuisances. Motion was seconded by Councilor Larson. *Discussion: None*
Vote: Motion passed unanimously.

Motion was made by Councilor Larson to approve Resolution 24-22 – A Resolution Authorizing the City Recorder to Establish a Lien on Real Property for Failure to Abate Nuisances. Motion was seconded by Councilor Harris. *Discussion: None*
Vote: Motion passed unanimously.

Motion was made by Councilor Larson to approve Resolution 24-23 – A Resolution Authorizing the City Recorder to Establish a Lien on Real Property for Failure to Abate Nuisances. Motion was seconded by Councilor Burnett. *Discussion: None*
Vote: Motion passed unanimously.

Mayor Matthew Hald noticed a correction to the agenda, Resolution 24-22 was numbered twice.

CITY ADMINISTRATOR REPORT

City Administrator Lonnie Rainville shared that a new marker has been placed at the Applegate Trail. The city has been working with the National Parks Service on the design of the marker for some time. If there is going to be any press releases the City Administrator will let Council know. City Administrator Lonnie Rainville also shared that he met with the Youth Art League at the bus shelter in Millsite Park. They will be working on creating a design to present to the City. Parks Director Michael Branson also helped open some spots in the shelter to bring in some light. The Youth Art League may be doing a fundraiser to help raise funds for the improvements. A group will be meeting to begin working on ideas for the visitor center. October 26th is National Make a Difference Day. Staff have organized a community volunteer event to have the community help with clean-up projects in the parks and on Main Street. We will be providing a barbeque lunch for the volunteers. Council had suggested a shred day for the community and staff have been working on coordinating that for October. Staff have also worked on a community leaf pick up that is being coordinated for the last week of October. The City Administrator also reminded Council of the Household Hazardous Waste event next Saturday, September 28th from 9:00 a.m. to 2:00 p.m.

MAYOR AND COUNCILOR – COMMITTEE REPORTS and COUNCILOR COMMENTS

Councilor Harris shared that Challenge of the Heroes is going to be 5:30 p.m. to 8:00 p.m. on Thursday at Millsite Park. Councilor Harris also shared about the Abandancy Concept small business event sponsored by the CCD. Councilor Larson brought up the Stream Table presentation. Councilor Larson asked if council was moving forward with the support for the stream restoration. Councilor Chaney suggested that a scope of project, timeline, and budget be presented prior to any approval. Councilor Chaney shared that if anyone was looking for volunteer opportunities that the Community Thanksgiving Dinner will be coming in November.

ADJOURNMENT

Mayor Matthew Hald adjourned the regular meeting of the City Council for September 17, 2024 at 7:29 P.M.

____

Matthew Hald, Mayor

Attest:

____

Joanna Bilbrey
City Recorder

Myrtle Creek - City Council Agenda Report

Agenda item: Resolution 24-24 Declaring Surplus Property

Meeting Date: October 1, 2024	Primary Staff Contact: Joanna Bilbrey
Department: Administration	E-Mail: jbilbrey@myrtlecreek.org
Secondary Dept.:	Secondary Contact:

Issue before the Council: Declaring property as surplus and allowing city staff to dispose of as needed.

Staff Recommendation: The staff recommendation is for Council to approve Resolution 24-24 and allow for staff to dispose of property that is no longer of use to the city and to remove from the property from the city's registry.

Background: While cleaning up the Public Works yard several items of property were located that are not running in satisfactory condition or are no longer compatible with city owned equipment. Two vehicles, a pull behind air compressor, a Kubota mower, and four tractor buckets have been removed from use.

Related City Policies:

Fiscal Impact:
The city would save money by no longer needing to pay insurance on the equipment and any funds that are received would be placed into the general fund.

Council Options:
Council may take no action and leave property on the city's asset role.

Council may approve Resolution 24-24 and release property as surplus to be disposed of.

Council may elect to only select certain items to declare as surplus.

Potential Motion:

- I make the motion to approve Resolution 24-24, A resolution declaring city owned property surplus and disposing of same.

CITY OF MYRTLE CREEK
OREGON
RESOLUTION 24–24

A RESOLUTION DECLARING CITY OWNED PROPERTY SURPLUS AND DISPOSING OF SAME

Whereas, the City of Myrtle Creek has replaced Public Works equipment as show in Exhibit A; and

Whereas, the City of Myrtle Creek no longer has need for the replaced property; and

Whereas, the City of Myrtle Creek finds no apparent benefit to the City or the general public in continuing to maintain ownership of the property; and

NOW, THEREFORE, BE IT RESOLVED THAT the above referenced Public Works property is hereby declared surplus and shall be offered for disposal through public auction or as determined by the City Council of Myrtle Creek.

ADOPTED BY THE CITY COUNCIL this 1st day of October 2024.

PASSED AND APPROVED BY THE MAYOR this 1st day of October 2024.

____
Matthew Hald, Mayor

ATTEST: ______________________
Joanna Bilbrey
City Recorder

Resolution 24-24 declaring property surplus:

Exhibit A

1) 1988 Ingersoll-Rand Air Compressor VIN: 173157U88319

2) 1998 Chev PU VIN: 1GCGC24R9WE255932

3) 1999 GMC 3C VIN: 1GTEC19R9XR507604

4) Kubota F3990 Mower Model: RCK72P-F39; Serial No. 11721

5) Fronthoe Buckets

   23" tractor bucket
   24" fronthoe bucket
   17" fronthoe bucket
   12" fronthoe bucket

Myrtle Creek - City Council Agenda Report

Agenda item: Legislation Amendment – Public Contracting

Meeting Date:	October 1, 2024	Primary Staff Contact:	Lonnie Rainville
Department:	Administration	E-Mail:	lrainville@myrtlecreek.org
Secondary Dept.:		Secondary Contact:	

Issue before the Council:

Legislative review to approve Ordinance 860 an ordinance to repeal and replace Ordinance 854 and amend Chapter 3.05 of Myrtle Creek Municipal Code (MCMC).

Staff Recommendation:

Staff recommends approval of Ordinance 860, an amendment to repeal and replace Ordinance 854 and amend MCMC Chapter 3.05 – Public Contracting.

Background:

The Code Review Board approved recommendations for amendments to sections of Title 3 of the Myrtle Creek Municipal Code. The recommended changes are to Chapter 3.05 Public Contracting. The amendments are also to City Ordinance 854. Ordinance 860 will repeal and replace Ordinance 854 and amend Chapter 3.05 of the Municipal Code. The recommended changes are attached, as an exhibit, to Ordinance 860.

Related City Policies:

Myrtle Creek Municipal Code Chapter 3.05
City Ordinance 854

Fiscal Impact:

No fiscal impact

Council Options:

Council can approve Ordinance 860, repealing and replacing Ordinance 854 and amending MCMC Chapter 3.05

Council can take no action

Potential Motion:

I make the motion to approve Ordinance 860, an ordinance amending MCMC Chapter 3.05 Public Contracting and repealing and replacing Ordinance No. 854.

MYRTLE CREEK
OREGON
ORDINANCE NO. 860

AN ORDINANCE AMENDING THE MYRTLE CREEK MUNICIPAL CODE CHAPTER 3.05 PUBLIC CONTRACTING AND REPEALING AND REPLACING ORDINANCE NO. 854

WHEREAS, the Myrtle Creek Code Review Board has been tasked with reviewing the Myrtle Creek Municipal Code in its entirety; and

WHEREAS, the Myrtle Creek Code Review Board has recommended updates to Chapter 3.05 Public Contracting of the Myrtle Creek Municipal Code; and

WHEREAS, the City Council finds that the proposed amendments are in the best interest of the citizens of the City of Myrtle Creek and that the enactment of this Ordinance is necessary to preserve the health, safety and general welfare of the City of Myrtle Creek; and

NOW, THEREFORE, the City of Myrtle Creek ordains as follows:

Chapter 3.05 of the Myrtle Creek Municipal Code, Public Contracting, shall now read as follows:

SECTION 1. Adoption of Rules.

The following (hereinafter "these rules") shall be public contracting rules for the city of Myrtle Creek. Except as provided within these rules, public contracting by the city shall be governed by the public contracting code and the model rules. The Myrtle Creek city council is the city's contract review board (board). Except as otherwise provided in these rules, the powers and duties of the contract review board will be exercised by the city council and the powers and duties given or assigned to contracting agencies will be exercised by the city council. The city council may, through formal action, from time to time delegate its powers to conduct certain procurements to various members of its staff.

The city administrator is authorized to contract for personal, professional and consulting services and to purchase goods and services pursuant to this chapter without prior approval of the city council when the amount of the contract is less than $25,000.

SECTION 2. Definitions.

As used herein, the following phrases have the following meanings. (All words and phrases not defined herein shall have the meanings ascribed to them in the public contracting code or in the model rules.)

"Contracting Agency" means the city and includes any person authorized by the city council to conduct a procurement on behalf of the city.

"Personal Services Contract" means a contract for services that require specialized technical, artistic, creative, professional or communication skills or talent, unique and specialized knowledge, or the exercise of discretionary judgment skills, and for which the service depends on attributes that are unique to the service provider, other than contracts for an architect, engineer, land surveyor or provider of related services as defined in ORS 279C.100. Contracts for personal services include but are not limited to the following contracts or classes of contracts:

(1) Accountants and auditors;
(2) Appraisers;
(3) Computer consultants;
(4) Lawyers;
(5) Insurance consultants;
(6) Training consultants;
(7) Investigators;
(8) Management system consultants.

SECTION 3. Exemptions from Competitive Procurement.

The following contracts and classes of contracts are exempt from the competitive procurement requirements of the public contracting code and the model rules and may be awarded as provided herein, or otherwise in any manner which the contracting agency deems appropriate including by direct appointment or purchase:

(1) Contracts up to $25,000. Any procurement of goods or services or any combination thereof not exceeding $25,000 may be awarded in any manner deemed practical or convenient by the contracting agency, including by direct selection or award. Procurements shall not be artificially divided or fragmented so as to constitute a smaller procurement than specified in this section.

(2) Contracts up to $250,000. Any procurement of goods or services or any combination thereof, other than public improvement contracts, exceeding $25,000 but not exceeding $250,000, may be awarded using the following procedures for informal solicitation in lieu of the procedures set forth in the model rules:

(a) Solicitation of Offers. When authorized by these regulations, an informal solicitation may be made by general or limited advertisement to a certain group of vendors, by direct inquiry to persons selected by the contracting agency, or in any other manner which the contracting agency deems suitable for obtaining competitive quotes or proposals. The contracting agency shall deliver or otherwise make available to potential offerors a written scope of work, a description of how quotes or proposals are to be submitted and description of the criteria for award.

(b) Award. The contracting agency shall attempt to obtain a minimum of three written quotes or proposals before making an award. If the award is made solely on the basis of price, the contracting agency shall award the contract to the responsible offeror that submits the lowest responsive quote. If the award is based on criteria other than, or in addition to, price, the

contracting agency shall award the contract to the responsible offeror that will best serve the interest of the city, based on the criteria for award.

(c) Records. A written record of all persons solicited and offers received shall be maintained. If three offers cannot be obtained, a lesser number will suffice; provided, that a written record is made of the effort to obtain the quotes.

(3) Equipment Repair. Contracts for equipment repair or overhauling may be awarded without competition, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.

(4) Sole Source Contracts. Contracts for goods or services which are available from a single source may be awarded without competition.

(5) Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly awarded contracts and are not subject to competitive procurement procedures.

(6) Temporary Extensions or Renewals. Contracts for the temporary extension or renewal of a single period of one year or less of an expiring and nonrenewable, or recently expired, contract, other than a contract for public improvements, are not subject to competitive procurement procedures.

(7) Contracts Required by Emergency Circumstances.

(a) In General. When an official with authority to enter into a contract on behalf of the contracting agency determines that immediate execution of a contract within the official's authority is necessary to prevent substantial damage or injury to persons or property, the official may execute the contract without competitive selection and award, but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.

(b) Reporting. An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances, (i) document the nature of the emergency, the method used for selection of the particular contractor and the reason why the selection method was deemed in the best interest of the contracting agency and the public; and (ii) notify the city council of the facts and circumstances surrounding the emergency execution of the contract.

(c) Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the contracting agency has made a written declaration of emergency. Any public improvement contract award under the emergency conditions must be awarded within 60 days following the declaration of an emergency unless the contracting agency grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the contracting agency may waive the requirement for all or a portion of required performance and payment bonds.

(8) State Law Exemptions. There shall be an exemption for any other contract or class of contract exempted by the public contracting code or the model rules.

(9) Other Exemptions Adopted in Future. There shall be an exemption for any other contract or class of contracts expressly exempted from competitive procurement requirements pursuant to procedures permitted by the public contracting code or the model rules.

(10) Public Improvements. Public improvement contracts estimated by the contracting agency not to exceed $100,000, or not to exceed $50,000 in the case of a contract for a highway, bridge or other transportation project, may be awarded by competitive quotes under the following procedures:

(a) The contracting agency shall informally solicit at least three price quotes from prospective contractors. If three prospective contractors are not available, then fewer quotes may be solicited, and the contracting agency shall maintain records of the attempts to obtain quotes.

(b) The contracting agency shall award the contract to the prospective contractor whose quote will best serve the interests of the contracting agency, taking into account price and other applicable factors, such as experience, specific expertise, past record of performance and conduct, availability, familiarity with local area and access to local resources, project understanding, contractor capacity, and contractor responsibility. If the contract is not awarded on the basis of the lowest price, the contracting agency shall make a written record of the basis for the award.

(c) A procurement may not be artificially divided or fragmented to qualify for the informal contract award procedures provided by this section.

SECTION 4. Personal Services Contracts Rules.

Personal services contracts (other than a personal services contract for an architect, engineer, land surveyor or provider of related services) are subject to the rules established by this section:

(1) All personal services contracts shall contain all contract provisions mandated by state law. These provisions may be incorporated in the personal services contract by reference to state law, unless state law provides otherwise. The attorney for contracting agency when requested will prepare model contract provisions for use in personal services contracts.

(2) The following procedures shall be observed in the selection of personal services contractors:

(a) For personal services contracts involving an anticipated fee of $25,000 per annum, the contracting agency may negotiate a contract for such services with any qualified contractor the contracting agency selects.

(b) For personal services contracts involving an anticipated fee of more than $25,000 per annum, the contracting agency shall solicit prospective contractors who shall appear to have at least minimum qualifications for the proposed assignment, notify each prospective contractor in reasonable detail of the proposed assignment, and determine the prospective contractor's interest and ability to perform the proposed assignment.

(c) The contracting agency may arrange for any or all interested prospective contractors to be interviewed for the assignment by an appropriate employee or by an interview committee.

(d) Following a review of the qualifications and interview, where conducted, of the interested prospective contractors, the contracting agency shall select the prospective contractor, and shall prepare a personal services contract.

(3) Some or all of the following criteria shall be considered in the evaluation and selection of a personal services contractor:

(a) Experience in the type of work to be performed.

(b) Familiarity with the local area and access to local resources.

(c) Capacity and capability to perform the work, including any specialized services within the time limitations for the work.

(d) Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules, and contract administration, where applicable.

(e) Any other factors relevant to the particular contract.

(4) The above provisions regarding selection procedures and criteria do not apply to renewals, amendments or modifications of existing personal services contracts.

(5) The selection procedures described in this section may be waived by the contracting agency at its discretion where an emergency exists that could not have been reasonably foreseen and requires such prompt execution of a contract to remedy the situation that there is not sufficient time to permit utilization of the selection procedures.

SECTION 5. Disposition of Surplus Personal Property.

Disposition of surplus personal property may be made, at the discretion of the contracting agency, under provisions of the public contracting code or the model rules or under the provisions of this section:

(1) General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the contracting agency that the method of disposal is in the best interest of the city. Factors that may be considered by the contracting agency include costs of sale, administrative costs, and public benefits to the city. The contracting agency shall maintain a record of the reason for the disposal method selected, and the manner of disposal, including the name of the person to whom the surplus property was transferred.

(a) Governments. Without competition, by transfer or sale to another city department or public agency.

(b) Auction. By publicly advertised auction to the highest bidder.

(c) Bids. By publicly advertised invitation to bid.

(d) Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.

(e) Fixed Price Sale. The contracting agent may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.

(f) Trade-In. By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state total value assigned to the surplus property to be traded.

(g) Donation. By donation 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) of the Internal Revenue Code of 1986, as amended.

(2) Disposal of Property with Minimal Value. Surplus property which has a value of less than $500.00, 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.

(3) Restriction on Sale to City Employees. City employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property. When surplus is sold by the first qualifying buyer method, employees must wait three days after the notice of sale is released to put in an offer to buy. When a sealed bid method is used employees can enter a sealed bid anytime during the open bid period and if their bid is highest, they will receive the item.~~, but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least three days after the first date on which notice of the sale is first publicly advertised.~~

SECTION 6. Negotiations.

If bids or quotes are solicited for a public improvement contract, and all bids or quotes exceed the budget for the project, the contracting agency may, prior to contract award, negotiate for a price within the project budget under the following procedures:

(1) Negotiations will begin with the lowest responsive and responsible bidder or proposer. If negotiations are not successful, then the contracting agency may begin negotiations with the second lowest responsive bidder or proposer, and so on.

(2) Negotiations may include value engineering and other options to attempt to bring the project cost within the budgeted amount.

(3) A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original solicitation or bid documents.

(4) The contracting agency will adhere to the provisions of ORS 279C.340 in applying this section.

SECTION 7. Repeal

Ordinance No. 854, which was adopted on October 17, 2023, is hereby repealed in its entirety.

PASSED BY CITY COUNCIL UPON ITS FIRST READING this _____ day of October 2024.

APPROVED BY CITY COUNCIL UPON ITS SECOND READING this ____ day of October 2024.

APPROVED BY THE MAYOR this _____ day of October 2024.

____
Matthew Hald, Mayor

ATTEST:

____
Joanna Bilbrey
City Recorder

Myrtle Creek - City Council Agenda Report

Agenda item: Legislation Amendment – Reimbursement Districts

Meeting Date:	October 1, 2024	Primary Staff Contact:	Lonnie Rainville
Department:	Administration	E-Mail:	lrainville@myrtlecreek.org
Secondary Dept.:		Secondary Contact:	

Issue before the Council:

Legislative review to approve Ordinance 861 an ordinance to repeal and replace Ordinance 714 and amend Chapter 3.15 of Myrtle Creek Municipal Code (MCMC).

Staff Recommendation:

Staff recommends approval of Ordinance 861, an ordinance to repeal and replace Ordinance 714 and amend MCMC Chapter 3.15 – Reimbursement Districts.

Background:

The Code Review Board approved recommendations for amendments to sections of Title 3 of the Myrtle Creek Municipal Code. The recommended changes are to Chapter 3.15 Reimbursement Districts. The amendments are also to City Ordinance 714. Ordinance 861 will repeal and replace Ordinance 714 and amend Chapter 3.15 of the Municipal Code. The recommended changes are attached, as an exhibit, to Ordinance 861.

Related City Policies:

Myrtle Creek Municipal Code Chapter 3.15
City Ordinance 714

Fiscal Impact:

No fiscal impact

Council Options:

Council can approve Ordinance 861, repealing and replacing Ordinance 714 and amending MCMC Chapter 3.15

Council can take no action

Potential Motion:

I make the motion to approve Ordinance 861, an ordinance amending MCMC Chapter 3.15 Reimbursement Districts and repealing and replacing Ordinance No. 714.

CITY OF MYRTLE CREEK

ORDINANCE NO 861

AN ORDINANCE AMENDING THE MYRTLE CREEK MUNICIPAL CODE CHAPTER 3.15 REIMBURSEMENT DISTRICTS AND REPEALING AND REPLACING ORDINANCE NO. 714

WHEREAS, the Myrtle Creek Code Review Board has been tasked with reviewing the Myrtle Creek Municipal Code in its entirety; and

WHEREAS, the Myrtle Creek Code Review Board has recommended updates to Chapter 3.15 of the Myrtle Creek Municipal Code that more closely align with current operations; and

WHEREAS, the City Council finds that the proposed amendments are in the best interest of the citizens of the City of Myrtle Creek and that the enactment of this Ordinance is necessary to preserve the health, safety and general welfare of the City of Myrtle Creek; and

NOW THEREFORE, THE CITY OF MYRTLE CREEK ORDAINS AS FOLLOWS:

Chapter 3.15 of the Myrtle Creek Municipal Code, Reimbursement Districts, shall now read as follows:

SECTION 1. Purpose.

The purpose of this chapter is to provide a method to reimburse a person who finances the construction of a public improvement that has the capacity to serve development other than that for which it is built. The person financing the development must be deemed to pay a whole or disproportionately large part of the improvement. This chapter is intended to mitigate the cost of financing such public improvements by distributing some of its costs to other development that benefits from such public improvements when the benefited development makes use of the improvements.

The charge paid by the benefited property should be proportional to the use the benefited property makes of the public improvement. This chapter provides developers with a mechanism that may be used solely to finance capital construction needs of the city.

SECTION 2. Definitions.

"Administrative fee," as used in this chapter, means the amount of money charged by the city for the costs of administering this chapter, including, but not limited to, producing the city administrator's report, public meeting support, other personnel costs, mailing fees, legal fees and the costs to account, track and assess reimbursement charges to future development.

"Development" occurs when a structure or other use of land connects to or otherwise makes use of a sewer, water, stormwater or street improvement. As used in this chapter, "makes use of a stormwater improvement" means activities sufficient to trigger the requirements of MCMC 18.155.050. As used in this chapter, "makes use of a street improvement" means the construction or installation of an improvement or a change in the use of a property that increases traffic or congestion on the street improvement for which the reimbursement district is formed.

"Finance" (the/an improvement) includes, without limitation, being assessed in a local improvement district. A reimbursement district may be established hereunder concurrently with formation of a local improvement district pertaining to the same public improvement, which local improvement district may contain properties near the reimbursement district.

"LGIP" means local government investment pool.

"Reimbursement district" means an area of properties set forth in a reimbursement resolution and subject to reimbursement charges as set forth herein, which charges may without limitation be for the purpose of reimbursing other property owners within a local improvement district containing properties near the reimbursement district.

As used herein the singular includes the plural and vice versa.

SECTION 3. Initiation.

(1) Any person may choose or may be required as a condition of a land use decision approval to construct a public street, water, sewer or stormwater improvement that costs in excess of the current threshold amount. If this person finances the improvement, in whole or disproportionately large part, and the improvement will or could provide service to development other than the development owned by that person, that person may apply to the city to form a reimbursement district for the benefit of him/herself as well as other persons similarly situated.

(2) An application or reapplication to establish a reimbursement district shall be in writing, shall be filed with the city administrator, and shall be accompanied by a processing fee sufficient to cover the administrative review and notice costs of processing the application or reapplication, as established by resolution of the city council.

(3) The application shall include the following:

(a) A description of the location, type and capacity of the public improvement proposed to be the basis for the reimbursement district;

(b) A narrative statement explaining why the person financing the public improvement believes all or part of the cost of the public improvement is eligible for reimbursement pursuant to this chapter. This statement shall clearly indicate that only the costs of improvements not benefiting the person's property are subject to reimbursement;

(c) A map showing the area proposed to be included in the proposed reimbursement district as well as any other area, if any, proposed to be reimbursed by the reimbursement charges and indicating the following information:

(i) The comprehensive plan designation, and zoning for each property in the proposed reimbursement district;

(ii) The frontage length and square footage of each property within the proposed reimbursement district, or other similar data necessary for calculating the apportionment of the costs; and

(iii) Identification of the properties owned by the person applying for the reimbursement district and others similarly situated;

(d) Mailing labels for notice to all parties entitled under MCMC 3.15.050 to receive mailed notice of the application. The person applying for the reimbursement district shall use the names and addresses of property owners within the notice area indicated on the most recent property tax roll. This may require the person applying for the reimbursement district to resubmit additional labels depending on the final city administrator report recommendations;

(e) A proposed methodology for calculating costs to future development in the reimbursement district. The city administrator may be able to provide possible methodologies to the person applying for the reimbursement district; however, use of a methodology suggested by the city administrator shall not guarantee approval of either the methodology or the reimbursement district;

(f) The estimated cost of the public improvement to be reimbursed as evidenced by bids, projections of the cost of labor and materials, or other evidence satisfactory to the city administrator; and

(g) The date the public improvement is estimated to be complete.

(4) The initial application for formation of a reimbursement district shall be made before city approval of specific reimbursement district portions of construction plans and authorization to proceed with the construction of the portions of street, water, sewer or stormwater improvements. The person applying for the reimbursement district may proceed at their own risk with the construction of the public improvements prior to the city council authorizing the reimbursement district. The city staff or city council may abandon the proceedings per MCMC 3.15.050 or the city council may not authorize or authorize in full the reimbursement district. In these cases, the person applying for the reimbursement district shall be responsible for the full cost of the subject public improvement or for such cost differential not provided for in such authorization.

(5) If the person applying for the reimbursement district desires to reapply after the reimbursement district proceedings are abandoned under MCMC 3.15.050, that person shall submit a reapplication and processing fee as established by resolution of the city council.

SECTION 4. City administrator's report.

The city administrator or his designee shall review the application for the establishment of a reimbursement district and recommend whether a district should be established. The city administrator may request the submittal of other relevant information from the person applying for the reimbursement district in order to assist in the evaluation.

The city administrator or his designee shall prepare a written report for the city council that:

(1) Recommends whether or not the reimbursement district should be formed;

(2) Explains whether the person applying for the reimbursement district proposes to finance some or all of the cost of a street, water, sewer, or stormwater improvement to make service available to property, other than property owned by the person applying for the reimbursement district;

(3) Recommends the area that should be included in the reimbursement district as well as any other area, if any, to be reimbursed by the reimbursement charges;

(4) States the estimated cost of the street, water, sewer or stormwater improvement to be included in the proposed reimbursement district and the portion of the cost for which the person applying for the reimbursement district should be reimbursed. Unless special circumstances exist, the cost to be reimbursed to the person applying for the reimbursement district shall not include the following:

(a) Costs for that portion of the improvement that specially benefits the person's property;

(b) Costs of improvements that will not be dedicated to and accepted by the city as a public improvement;

(c) Costs for a public improvement that is required as a condition of development approval, except in cases where the nature and degree of the public improvement is disproportionate to the impacts of the development, or where the city requires an oversized or additional improvement beyond that which is roughly proportional to the impacts of the development;

(d) Costs for relocation of electrical, telephone, cable television, natural gas or other utility relocation across the person's subject frontage;

(e) Costs for extra work or materials required to correct construction deficiencies to bring an otherwise noneligible improvement up to city standards;

(f) Costs for sewer, water, stormwater or street improvements that are the city standards to serve the person's property;

(g) Costs for street realignment, except for the cost of right-of-way acquisition beyond the limits of the development frontage along the improved street; and

(h) Costs for administering the reimbursement agreement between the city and the person applying for the reimbursement district;

(5) States the estimated administrative fee and includes a recommendation on whether the city council should alter late fees on reimbursement charges that are not paid within 30 calendar days of the date the reimbursement charge is imposed;

(6) Recommends a just and reasonable methodology for allocating the cost of the public improvement to future development in the reimbursement district. The methodology shall consider, as relevant, the cost of the public improvement, contributions by property owners, the

value of the unused capacity, the benefit the unused capacity will have to future development, rate-making principles employed to finance public improvements and any other factors deemed relevant by the city administrator; and

(7) Recommends the amount to be charged by the city for administration of the agreement between the city and the person applying for the reimbursement district. The administrative fee shall be fixed by the city council and shall be included in the resolution approving and forming the reimbursement district.

SECTION 5. Establishing the reimbursement district.

(1) The city council shall hold a public hearing on the proposed reimbursement district, at which time any person may comment on the proposal.

(2) If, prior to or during the public hearing, written objections are received from persons who own a majority of the area proposed to be included in the reimbursement district, then the proceedings to create a reimbursement district ~~shall~~ may be abandoned. If reimbursement district proceedings are abandoned, the property within the area proposed to be included in the reimbursement district ~~shall not be subject to a reapplication~~ cannot reapply for a reimbursement district for at least six months. The six-month period shall begin on the date the city receives the final written objection totaling a majority of the ownership of the proposed reimbursement district. Abandonment of a reimbursement district shall not preclude persons from submitting applications requesting formation of other reimbursement districts for other public improvements.

(3) Following the public hearing, if the city does not receive sufficient objections as described in subsection (2) of this section, the city council shall have the sole discretion to decide whether a resolution approving and forming the reimbursement district shall be adopted.

(4) The city shall provide mailed notice of the public hearing on the proposal to the person applying for the reimbursement district and all owners of property within the proposed district as recommended by the city administrator’s report. Notice shall be deemed effective on the date of mailing. Failure of any person to receive the notice shall not invalidate or otherwise affect the public hearing or the formation of the reimbursement district. Notice of the hearing shall be mailed by regular mail at least 14 calendar days before the date of the hearing. The notice shall:

(a) State that a reimbursement district under this chapter has been proposed and that the proposed district includes the property or residence of the person receiving notice;

(b) Briefly describe the reimbursement district, the street, water, sewer or stormwater improvement to be reimbursed, the estimated amount of the reimbursement charges and the circumstances under which the charges will be imposed;

(c) Include a copy of the city administrator’s report;

(d) State the time, date and place of the public hearing;

(e) Explain the procedure for filing written comments before the public hearing; and

(f) Explain the process for submitting written comments at the public hearing.

Notice shall also be published in like manner as for a local improvement district.

(5) After the public hearing is held, the city council shall approve, reject or modify the recommendations contained in the city administrator's report. If a reimbursement district is established, the city council shall pass a resolution establishing the area included in the reimbursement district, the estimated cost of the public improvements, the methodology for allocating the costs to future development, and the administrative fee charged by the city. If areas not proposed by the city administrator to be included in the district are added by the city council, the hearing shall be continued. Residents and property owners of the additional area added by the city council shall be entitled to mailed notice of a continued hearing at least 14 calendar days prior to such continued hearing. No additional notice is required if the city council excludes a property from a proposed reimbursement district; however, the hearing shall be continued.

(6) The resolution shall instruct the city administrator to enter into an agreement with the person applying for the reimbursement district pertaining to the public improvements authorized by the reimbursement district resolution. Unless otherwise ordered by the city council, the agreement, at a minimum, shall contain the following provisions:

(a) The public improvements shall meet all applicable city standards;

(b) The amount of estimated potential reimbursement to the person applying for the reimbursement district and others similarly situated;

(c) The person applying for the reimbursement district shall provide a maintenance guarantee, approved by the city attorney, on the public improvements for a period of 24 months after the date the city accepts the public improvements for ownership and operation;

(d) The person applying for the reimbursement district shall defend, indemnify and hold harmless the city from any and all losses, claims, damage, judgments or other costs or expenses arising as a result of or related to the city's establishment and administration of the reimbursement district;

(e) The person applying for the reimbursement district shall acknowledge that the city is not obligated to collect the reimbursement fee from affected developers, and that the right to reimbursement shall be derived solely under the provisions of this chapter; and

(f) The person applying for the reimbursement district shall agree to abide by all other city, state and federal laws including, but not limited to, public contracting laws.

SECTION 6. Reimbursement charge.

(1) After the project is completed, the person responsible for constructing the improvement shall submit to the city administrator the final costs of the public improvement and such supporting material as deemed necessary by the city administrator to evaluate compliance with this chapter. The city administrator shall then prepare a proposed final reimbursement resolution that identifies:

(a) The actual reimbursement charge for future development in the reimbursement district;

(b) The late fees, if different from that imposed by this chapter, that shall be imposed and collected if the reimbursement charge is not paid within 30 calendar days of the date the reimbursement charge is imposed; and

(c) The proposed apportionment and disbursement or use of reimbursement charges collected.

(2) The city shall provide mailed notice of the proposed final reimbursement resolution to the person applying for the reimbursement district and all residents and owners of property within the reimbursement district. Notice shall be deemed effective on the date of mailing. Notice shall be mailed by regular mail at least 14 calendar days before the date of the city council's action on the reimbursement resolution. The notice shall set forth:

(a) The time, date, and place of the city council's action;

(b) The amount of the final reimbursement charges for future development; and

(c) The interest rate for future installment payments as described in MCMC 3.15.080(3).

Notice shall also be published in like manner as for a local improvement district.

(3) The city administrator shall submit the final costs and the proposed final reimbursement resolution to the city council for approval. The city council may approve the proposed final reimbursement resolution or adjust the reimbursement charges, costs and late fees, if they are not deemed just and reasonable, and adopt a final reimbursement resolution accordingly. If the final reimbursement resolution or any action necessary for the adoption of such a resolution is adjudged invalid, in whole or in part, by an agency or court of competent jurisdiction, the city may take such action as is necessary to provide for the imposition and collection of the costs of the administration of the reimbursement district, including the city's costs in defending the same, from the person applying for the reimbursement district.

(4) The city shall notify all residents and property owners within the reimbursement district and the person applying for the reimbursement district of the adoption of a final reimbursement resolution. The notice shall be mailed by regular mail and shall be effective on the day of mailing. The notice shall include a copy of the reimbursement resolution, the date it was adopted, and a short explanation of when a developer is obligated to pay a reimbursement charge and the amount of the charge, including late fees, if applicable.

(5) The city recorder shall record the final reimbursement resolution in the office of the county recorder within 30 calendar days of the date the resolution is adopted so as to provide notice to potential developers of property within the reimbursement district. The recording shall not create a lien. Failure to make such a recording shall not affect the lawfulness of the reimbursement resolution or obligation to pay the reimbursement charge.

SECTION 7. Challenges to resolution establishing reimbursement district or to final reimbursement resolution.

Any legal action intended to contest the formation of the reimbursement district or the reimbursement charge, including the amount of the charges for future development, shall be filed pursuant to ORS 34.010 to 34.100 (writ of review) within 60 calendar days following adoption of the resolution being challenged. The writ of review shall be the sole and exclusive remedy for any challenge to proceedings under this chapter.

SECTION 8. Imposition of reimbursement charge.

(1) No reimbursement charge shall be imposed, and there shall be no obligation to pay any reimbursement charge identified in a final reimbursement resolution and reimbursement agreement, unless and until development occurs that connects to, or otherwise makes use of, the public improvement that was the subject of the reimbursement district.

(a) The reimbursement charge will be imposed when a development within the reimbursement district connects to, or otherwise makes use of, the sewer, water, stormwater or street improvement.

(i) As used in this subsection, "makes use of the stormwater improvement" means activity sufficient to trigger the requirements of MCMC 18.155.050 at the time of, or following construction of, the stormwater improvement for which the reimbursement district is formed.

(ii) As used in this subsection, "makes use of the street improvement" means the construction or installation of an improvement or a change in the use of the property at the time of or following construction of the street improvement that increases traffic or congestion on the street improvement for which the reimbursement district is formed.

(2) The reimbursement charge is imposed and becomes due and payable as a precondition of receiving the first city permit applicable to the development activity undertaken or, in the case of a connection to a line, as a precondition of receiving the connection permit.

(3) The reimbursement charge may be paid in annual installments over a period of 10 years unless extended by process described in MCMC 3.15.100. If a person chooses to pay the reimbursement charge installments, the installments will bear interest from the time the reimbursement charge is imposed. The interest rate will be calculated using the local government investment pool rate in effect at the time the charge is imposed plus one and one-quarter percent for administration.

(4) If the reimbursement charge is paid in installments, a late fee of one and one-half percent of the overdue payment per month may be assessed for any late payments. The amount of the late fees may be altered by city council resolution.

SECTION 9. Petition for relief.

A person subject to a reimbursement charge may petition the city council for relief from the payment of the charge. Such relief may be granted by the city council only in extraordinary circumstances when payment of the reimbursement charge would be inequitable or otherwise unlawful. A petition under this section is a mandatory administrative step required before any party may seek redress through the court system. A petition for relief must be filed within 30

days of the date the charge is imposed and must explain how the charge is inequitable or otherwise unlawful and it must set forth with particularity the grounds for relief. In response to a properly filed petition for relief, the city council may hold an evidentiary hearing and shall issue a decision in writing, which shall be final when signed by the mayor. The city shall withhold the issuance of building permits and all other permits for the development on which a petition for relief has been filed until the petition is conclusively resolved, including any judicial review.

SECTION 10. Administration

(1) A right to reimbursement shall terminate 10 years after the reimbursement district is created unless the person who is eligible for reimbursement renews their eligibility for reimbursement. Eligibility for reimbursement may be renewed for two additional five-year periods. In order to renew eligibility for reimbursement, the person who is eligible for reimbursement must file a written declaration of renewal with the city administrator within 90 calendar days of the date the eligibility for reimbursement would otherwise terminate. Failure to file a timely declaration shall result in the termination of any eligibility for reimbursement. In no event may the eligibility for reimbursement exceed 20 years.

(2) Eligibility for reimbursement does not obligate the city to seek or pay the reimbursement charge.

(3) The right of reimbursement is assignable and transferable after the person who is eligible for reimbursement delivers written notice to the city, advising the city where to send future payments received by the city on behalf of the person or the person's assignee.

(4) The city shall establish separate accounts for each reimbursement district. Upon receipt of a reimbursement charge, the city shall cause a record to be made of the payment and remit or apply the charge as provided in the reimbursement resolution or agreement after deduction of administrative fees. The person eligible for reimbursement or that person's assignee shall notify the city within 30 calendar days of any mailing address change.

SECTION 11. Repeal

Ordinance 714, which was adopted April 17, 2001, is hereby repealed in its entirety.

PASSED BY CITY COUNCIL UPON ITS FIRST READING this ____ day of October 2024.

APPROVED BY CITY COUNCIL UPON ITS SECOND READING this ____ day of October 2024.

APPROVED BY THE MAYOR this _____ day of October 2024.

____
Matthew Hald, Mayor

ATTEST:

____

Joanna Bilbrey
City Recorder

Myrtle Creek - City Council Agenda Report

Agenda item: Legislation Amendment – System Development Charges

Meeting Date:	October 1, 2024	Primary Staff Contact:	Lonnie Rainville
Department:	Administration	E-Mail:	lrainville@myrtlecreek.org
Secondary Dept.:		Secondary Contact:	

Issue before the Council:

Legislative Amendment to approve Ordinance 862 an ordinance to repeal and replace Ordinance 728 and Ordinance 704, and amend Chapter 3.20 of Myrtle Creek Municipal Code (MCMC).

Staff Recommendation:

Staff recommends approval of Ordinance 862, an ordinance to repeal and replace Ordinance 728 and Ordinance 704, and amend MCMC Chapter 3.20 – System Development Charges.

Background:

The Code Review Board approved recommendations for amendments to sections of Title 3 of the Myrtle Creek Municipal Code. The recommended changes are to Chapter 3.20 System Development Charges. The amendments are also to City Ordinance 728 and Ordinance 704. Ordinance 862 will repeal and replace Ordinance 728, and Ordinance 704, and amend Chapter 3.20 of the Municipal Code. The recommended changes are attached, as an exhibit, to Ordinance 862.

Related City Policies:

Myrtle Creek Municipal Code Chapter 3.20
City Ordinance 728, City Ordinance 704

Fiscal Impact:

No fiscal impact

Council Options:

Council can approve Ordinance 862, repealing and replacing Ordinance #728 and Ordinance #704, and amending MCMC Chapter 3.20

Council can take no action

Potential Motion:

I make the motion to approve Ordinance 862, an ordinance to amend MCMC Chapter 3.20 System Development Charges and repealing and replacing Ordinance No. 728 and Ordinance 704.

CITY OF MYRTLE CREEK

ORDINANCE NO 862

AN ORDINANCE AMENDING THE MYRTLE CREEK MUNICIPAL CODE CHAPTER 3.20 SYSTEM DEVELOPMENT CHARGES AND REPEALING AND REPLACING ORDINANCE NO. 728 and ORDINANCE 704

WHEREAS, the Myrtle Creek Code Review Board has been tasked with reviewing the Myrtle Creek Municipal Code in its entirety; and

WHEREAS, the Myrtle Creek Code Review Board has recommended updates to Chapter 3.20 of the Myrtle Creek Municipal Code that more closely align with current operations; and

WHEREAS, the City Council finds that the proposed amendments are in the best interest of the citizens of the City of Myrtle Creek and that the enactment of this Ordinance is necessary to preserve the health, safety and general welfare of the City of Myrtle Creek; and

NOW THEREFORE, THE CITY OF MYRTLE CREEK ORDAINS AS FOLLOWS:

Chapter 3.20 of the Myrtle Creek Municipal Code, System Development Charges, shall now read as follows:

SECTION 1. Findings.

The Oregon Legislature, through the enactment of ORS 223.297 to 223.314, has authorized local governments in Oregon to establish system development charges (SDC) on new development.

(1) The imposition of SDCs ensures that new development bears a proportionate share of the cost of providing essential capital facilities and improvements necessary to accommodate such development as determined in a methodology as outlined in ORS 223.297.

(2) SDCs established by this chapter are derived from, and based upon, and do not exceed the cost of maintaining the existing level of services necessitated by the new development for which the fee is levied.

SECTION 2. Purpose.

The purpose of system development charge is to impose a portion of the cost 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.

SECTION 3. Scope.

The system development charge imposed by this chapter is separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development.

SECTION 4. Definitions.

For the purpose of this chapter, the following definitions apply:

"Capital improvements" means public facilities or assets used for (1) water supply, treatment or distribution or any combination, (2) wastewater collection, transmission, treatment or disposal or any combination, (3) drainage and flood control, (4) transportation, or (5) parks and recreation.

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

"Improvement fee" means a fee for cost associated with capital improvements to be constructed after the date the fee is adopted pursuant to MCMC 3.20.050.

"Land area" means 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 purposes.

"Owner" means 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" means 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.

"Qualified public improvements" means a capital improvement that is (1) required as a condition of residential development approval, (2) identified in the plan adopted pursuant to MCMC 3.20.090, and (3) located in whole or in part 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" means a fee for the cost associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to MCMC 3.20.050.

"System development charge" means a reimbursement fee, an improvement fee, or a combination thereof. An SDC will be collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or a building permit, or at the time of connection to the capital improvement. "System development charge" includes that portion of the 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.

SECTION 5. System development charge established.

(1) 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.

(2) Unless otherwise exempted by the provisions of this chapter or other local or state law, a 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.

SECTION 6. Methodology.

A methodology for establishing the improvement fee or the reimbursement fee, or both, shall be contained in a resolution adopted by the city council. Any changes or amendments to the methodology shall be made by resolution.

(1) The methodology used to establish or modify the reimbursement fee shall consider the cost of then-existing facilities including without limitation design, financing and construction costs, prior contributions by then-existing users, gifts or grants from federal or state government or private persons, the value of unused capacity available to future system users, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the council. The methodology shall promote the objective that future system users shall contribute no more than an equitable share of the cost of then-existing facilities.

(2) The methodology used to establish or modify the improvement fee shall consider the estimated cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related. The methodology shall be calculated to obtain the cost of capital improvements for the projected need for available system capacity for future system users.

SECTION 7. Authorized expenditures.

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

(2) 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 improvement funded by improvement fees must be related to demands created by current or projected development.

(3) 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 MCMC 3.20.090.

(4) Notwithstanding subsections (2) and (3) of this section, system development charge revenues may be expended on the direct cost of complying with the provisions of this chapter, including the cost of developing system development charge methodologies and providing an annual accounting of system development charge expenditures.

SECTION 8. Expenditure restrictions.

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.

System development charges shall not be expended for costs of operation or routine maintenance of capital improvements.

SECTION 9. Improvement plan.

Prior to the establishment of a system development charge, the council shall adopt a plan that (1) lists the capital improvements that may be funded with improvement fee revenues; (2) lists the estimated cost and time of construction of each improvement; and (3) 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 improvement plan or similar plan that contains the information required by this section. The council may modify such plan and list at any time. A change in the amount of a reimbursement fee or an improvement fee is not a modification of the system development charge if the change in the amount is based on the periodic application of an adopted specific cost index or a modification to any of the factors related to the rate that are incorporated in the established methodology.

SECTION 10. Collection of charge.

(1) Applicable system development charges are payable upon issuance of (a) a building permit or a development permit, (b) a land use permit or action not requiring the issuance of a building permit, (c) a development permit for development not requiring the issuance of a building permit, (d) a permit or approval to connect to the water system, (e) permit or approval to connect to the sewer system, or (f) a right-of-way access permit.

(2) 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.

(3) If development is commenced or connection is made to the water and sewer system without an appropriate permit, the system development charge is immediately due and payable.

(4) The city shall collect the applicable system development charge 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.

(5) The city 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 MCMC 3.20.110, or unless an exemption is granted pursuant to MCMC 3.20.120.

SECTION 11. Installment payment.

(1) When a system development charge of ~~$25.00~~ $2,000 or more is due and collectible, the owner of the parcel of land subject to the development charge may apply for payment in 20 semi-annual installments, to include interest on the unpaid balance, in accordance with ORS 223.208.

(2) The city shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computation errors.

(3) An application 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.

(4) The city shall record the amount of the system development charge, the dates on which the payments are due, the name of the owner, and the description of the parcel.

(5) The city shall docket the lien in the lien docket and record the installment payment contract in the county lien records. From that time, the city shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by council. The lien shall be enforceable in the manner provided in Chapter 223 ORS.

SECTION 12. Exemptions.

Structures and uses established and existing on or before the effective date of the ordinance codified in this chapter are exempt from a system development charge, 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 and sewer charges pursuant to the terms of this chapter upon the receipt of a permit to connect to the water or sewer system.

(1) 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 charge.

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

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

SECTION 13. Credits.

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, a credit shall be issued.

(1) A credit shall be given for the cost of a qualified public improvement associated with a residential development. If a qualified public improvement is located partially on and partially off the parcel that is subject to developmental approval, the credit shall be given only to the portion of the improvement required as a condition of development.

(2) Credit provided for under this subsection shall be limited to the improvement fee. No credit shall exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee.

(3) Credit shall not be transferable from one development to another.

(4) Credit shall not be transferred from one type of capital improvement to another.

SECTION 14. Notice.

(1) 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 charge. Written notice shall be mailed to persons on the list at least 90 days prior to the final hearing to adopt or amend a system development charge. The methodology supporting the adoption or amendment shall be available at least 60 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.

(2) 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.

(3) The city shall advise a person who makes a written objection to the calculation of a system development charge of the right to petition for review pursuant to ORS 34.010 to 34.100.

SECTION 15. Segregation and use of revenue.

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. Use of system development charge revenues shall be in strict accordance with MCMC 3.20.070.

The city recorder shall provide an annual accounting by January 1st of each year, for system development charges showing the total amount of the system development charge revenues collected for each type of facility and the projects funded from each account in the previous fiscal year. A list of the amount spent on each project funded, in whole or in part, with system development charge revenues shall be included in the annual accounting.

SECTION 16. Appeal procedure.

A person aggrieved by a decision required or the action of the city recorder under this chapter, or a person challenging a specific use of system development charge revenues, may appeal to the city council by filing a written request with the city recorder describing their complaint and requesting an appeal.

(1) Appeal of a specific revenue use must be filed within two years of the date of the alleged improper use. Appeals on any other decision must be filed within 10 days of the date of the decision.

(2) The council shall decide all appeals made pursuant to this section. If the council determines that there has been an improper expenditure of system development charge revenue, 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 to replace the misspent money. The decision of the council shall be judicially reviewed only as provided in ORS 34.010 to 34.100.

(3) A legal action challenging the methodology adopted by the council pursuant to MCMC 3.20.050 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 ORS 34.010 to 34.100, and not otherwise.

SECTION 17. Prohibited connection.

No person may connect to the water or sewer systems 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.

SECTION 18. Penalty.

Violation of this chapter is punishable by a fine not to exceed $250.00. Each day a violation continues shall be a separate violation punishable by a separate fine for each day.

SECTION 19. Construction.

The rules of statutory construction contained in Chapter 174 ORS are hereby adopted, and by this reference made a part of this chapter.

SECTION 20. Classification.

The council determines that any fees, rates or charges imposed by this chapter or resolution pursuant to this chapter are not taxes subject to limitations of Article XI, Section 11 or 11(b) of the Oregon Constitution.

SECTION 21. Repeal

Ordinance 728, which was adopted December 17, 2002, is hereby repealed in its entirety. Ordinance 704, which was adopted August 18, 1998, is hereby repealed in its entirety.

PASSED BY CITY COUNCIL UPON ITS FIRST READING this ____ day of October 2024.

APPROVED BY CITY COUNCIL UPON ITS SECOND READING this ____ day of October 2024.

APPROVED BY THE MAYOR this _____ day of October 2024.

____
Matthew Hald, Mayor

ATTEST:

____
Joanna Bilbrey
City Recorder

Myrtle Creek - City Council Agenda Report

Agenda item: Legislation Amendment – Public Safety Fee

Meeting Date:	October 1, 2024	Primary Staff Contact:	Lonnie Rainville
Department:	Administration	E-Mail:	lrainville@myrtlecreek.org
Secondary Dept.:		Secondary Contact:	

Issue before the Council:

Legislative Amendment to approve Ordinance 863 an ordinance to repeal and replace Ordinance 847 and amend Chapter 3.25 of Myrtle Creek Municipal Code (MCMC).

Staff Recommendation:

Staff recommends approval of Ordinance 863, an ordinance to repeal and replace Ordinance 847 and amend MCMC Chapter 3.25 – Public Safety Fee.

Background:

The Code Review Board approved recommendations for amendments to sections of Title 3 of the Myrtle Creek Municipal Code. The recommended changes are to Chapter 3.25 Public Safety Fee. The amendments are also to City Ordinance 847. Ordinance 863 will repeal and replace Ordinance 847 and amend Chapter 3.25 of the Municipal Code. The recommended changes are attached, as an exhibit, to Ordinance 863.

Related City Policies:

Myrtle Creek Municipal Code Chapter 3.25
City Ordinance 847

Fiscal Impact:

No fiscal impact

Council Options:

Council can approve Ordinance 863, repealing and replacing Ordinance 847 and amending MCMC Chapter 3.25

Council can take no action

Potential Motion:

I make the motion to approve Ordinance 863, an ordinance to amend MCMC Chapter 3.25 Public Safety Fee and repealing and replacing Ordinance No. 847.

CITY OF MYRTLE CREEK

ORDINANCE NO 863

AN ORDINANCE AMENDING THE MYRTLE CREEK MUNICIPAL CODE CHAPTER 3.25 PUBLIC SAFETY FEE AND REPEALING AND REPLACING ORDINANCE NO. 847

WHEREAS, the Myrtle Creek Code Review Board has been tasked with reviewing the Myrtle Creek Municipal Code in its entirety; and

WHEREAS, the Myrtle Creek Code Review Board has recommended updates to Chapter 3.25 of the Myrtle Creek Municipal Code that more closely align with current operations; and

WHEREAS, the City Council finds that the proposed amendments are in the best interest of the citizens of the City of Myrtle Creek and that the enactment of this Ordinance is necessary to preserve the health, safety and general welfare of the City of Myrtle Creek; and

NOW THEREFORE, THE CITY OF MYRTLE CREEK ORDAINS AS FOLLOWS:

Chapter 3.25 of the Myrtle Creek Municipal Code, Public Safety Fee, shall now read as follows:

SECTION 1. Findings.

The adoption of the ordinance codified in this chapter and the levying of charges and fees hereunder are adopted pursuant to the authority contained in the Oregon Constitution, Article XI, Section 2.

SECTION 2. Definitions.

For the purposes of this chapter, the following terms are defined as follows:

"Developed property" or "developed use" means a parcel or lot of real property upon which any improvement exists, and upon which activities occur that generate or receive motor vehicle traffic. Improvement on developed property includes, but is not limited to, buildings, parking lots, landscaping and outside storage.

"Dwelling" or "dwelling unit" means one or more habitable rooms that are occupied or that are intended or designed to be occupied by one family with housekeeping facilities for living, sleeping, sanitary facilities, cooking and eating.

"Multifamily residential" means property with a building consisting of two or more dwelling units, including, but not limited to, apartments, townhouses, condominiums and duplexes.

"Nonresidential" means a use of property that is primarily not for single-family or multifamily dwellings.

“Occupied unit” means any structure or any portion of any structure occupied for residential, commercial, industrial, or other purposes. For example, in a multifamily residential development, each dwelling unit shall be considered a separate occupied unit when occupied, and each retail outlet in a shopping mall shall be considered a separate occupied unit. In the case of short-term rentals, such as Airbnb and VRBO, occupied means advertised and available for tenant stays. An occupied unit may include more than one structure if all structures are part of the same dwelling unit or commercial or industrial operation. For example, an industrial site with several structures that form an integrated manufacturing process operated by a single manufacturer constitutes one occupied unit. Property that is undeveloped or, if developed, is not in current use with city utilities turned off is not considered an occupied unit.

“Person responsible” means the utility customer or the person or persons who by usage, occupancy or contractual arrangement are responsible to pay the city utility bill for an improved premises.

“Single-family residential” means property with a building consisting of a single, detached dwelling unit.

SECTION 3. Public safety fee established.

A public safety fee is hereby established, in an amount to be determined, and adjusted from time to time, by resolution of the city council. Fees charged to the person responsible shall be based on a per occupied unit. Such fee shall be established in such amounts which will provide sufficient funds to properly supplant the property tax funding directed to other departments.

SECTION 4. Exceptions to public safety fee.

The following shall not be subject to the public safety fee:

(1) City-owned parking lots, which are not associated with public services other than parking.

(2) Publicly owned parkland, open spaces, and greenways, unless public off-street parking designed to accommodate the use of such areas is provided.

SECTION 5. Use of funds.

All funds collected pursuant to this chapter shall be paid into the ~~general~~ Public Safety fund. Such revenues shall be used to pay costs of operations of the police department associated with equipment, vehicles, ~~training,~~ and contractual services. It shall not be necessary that the use and expenditures from the ~~general~~ Public Safety fund specifically relate to any particular property from which the fees for said purposes were collected.

SECTION 6. Public safety fee structure.

(1) The public safety fee shall be based on a per unit fee on developed property. Each dwelling unit shall be considered a separate occupied unit when occupied, and each retail outlet in a shopping mall shall be considered a separate occupied unit. An occupied unit may include more than one structure if all structures are part of the same dwelling unit or commercial or industrial operation. Property that is undeveloped or, if developed, is not in current use with city utilities

turned off is not considered an occupied unit. The following is an example representing a $4.00 per unit fee:

(a) Single-family residential unit: one unit times $4.00 equals $4.00 per month.

(b) Multifamily residential unit with four units: four times $4.00 equals $16.00 per month.

(c) Commercial/industrial unit with three retail shops: three times $4.00 equals $12.00 per month.

An industrial site with several structures that form an integrated manufacturing process operated by a single manufacturer constitutes one occupied unit.

(2) The city administrator shall determine the unit classification for developed property.

SECTION 7. Billing and collection of fees.

(1) The public safety fee shall be billed and collected with and as part of the monthly water and sewer bill for those lots or parcels utilizing city water and/or sewer, and billed and collected separately for those lots or parcels not utilizing city water and/or sewer. In cases where a developed property is subject to water and sewer utility charges, the public safety fee bill shall be directed to the same person as the bill for water and sewer charges. In the case of those lots or parcels which are not occupied by the owner, the fee shall be billed with the monthly water and sewer bill, if any, which is billed to the resident of the property, unless the owner of the property requests that the combined utility bill be sent to another address. If a tenant in possession of any premises pays such fee, such payment shall relieve the owner from such obligation and lien, but the city shall not be required to look to any person other than the owner for the payment of such fees. All such bills shall be rendered monthly and shall become due and payable upon receipt.

(2) All charges for public safety during any month shall be paid no later than 30 days after the billing date. Bills which remain unpaid for more than 30 days after the billing date shall be considered delinquent. If a customer's account remains delinquent for more than 10 days, the water service may be turned off at the premises against which the delinquent public safety fee charges are owed. When so turned off, the water shall not be turned on again until a reconnect fee established in the city of Myrtle Creek Handbook of Fees and Charges, plus the delinquent portion of the customer's public safety account balance has been paid. If the customer's account remains delinquent for more than 30 days, the amount owed shall be deducted from the customer's water service account deposit, the customer's account deposit, the customer's street, sewer and water accounts may be closed and any remaining deposit balance shall be returned to the customer at the customer's last known mailing address. The customer shall be responsible for keeping the city informed as to the customer's current mailing address. The customer shall be defined as the person or persons in whose name the utility service account is registered.

(3) If the public safety fee is not paid when due, the city administrator may proceed to collect such charges in any manner provided by law.

(4) Public safety fees shall continue to be levied against the customer's account until a vacancy occurs, or, in the case of a delinquent account, until the city turns off the water service.

SECTION 8. Waiver of fee in case of vacancy.

(1) When any property within the city becomes vacant, and water service is discontinued, a waiver of the public safety fee may be granted by the city administrator upon written application of the person responsible, including a signed statement, affirming under penalty of perjury that the property is vacant, and upon payment of all outstanding water, sanitary sewer, street utility, and public safety charges;

(2) For purposes of this section, "vacant" shall mean that an entire building or utility billing unit has become vacant or continuously unoccupied for at least 30 days. "Vacant" shall not mean that only a portion of a property without a separate water meter has become vacant or unoccupied.

(3) Fees shall be waived in accordance with this section only while the property remains vacant. The person responsible shall notify the city within five days of the premises being occupied, partially occupied or used, regardless of whether water service is restored.

SECTION 9. Appeal.

(1) Any property owner who disputes any interpretation given by the city as to the assigned billing category may appeal such interpretation. A property owner or their agent desiring an interpretation or other examination of the property owner's public safety fee shall submit a written application to the city administrator. The application shall be submitted in sufficient detail to enable the city administrator to render an interpretation.

(2) Within 30 days of the submission of an application for interpretation together with the required information, the city administrator shall cause a final decision to be made on the application. The decision shall be written and shall include findings of fact and conclusions for the particular aspects of the decision, based upon applicable criteria. A copy of the decision shall be mailed to the person submitting the request. The city administrator shall maintain a collection of such decisions.

(3) If the decision of the city administrator affects the unit fee of the property owner requesting the interpretation, the city administrator shall assign a new unit fee. If a change in unit fee is assigned, the appropriate change may be made in the applicable fee to charge in the future. Back charges or refunds shall be allowed up to 60 days, two billing cycles.

(4) Decisions of the city administrator may be further appealed to the city council, and shall be heard at a public meeting. An owner, who disputes an interpretation made by the city administrator as to the assigned unit fee under this chapter, shall submit a written appeal to the city council within 10 days from the date of the city administrator's decision, together with a filing fee established by resolution in the Handbook of Fees and Charges. The application for appeal shall specify the reasons therefor. Appeals shall be limited to the issue of whether the appropriate unit number has been assigned to the particular property.

(5) The city administrator shall schedule the matter for city council review and notify the appellant not less than 10 days prior to the date of such council review. The council shall conduct a hearing during a public meeting and determine whether there is substantial evidence in the

record to support the interpretation given by the city administrator. The council may continue the hearing for purposes of gathering additional information bearing on the issue. The council shall make a tentative oral decision and shall adopt a final written decision together with appropriate findings in support. The decision of the council with respect to the unit or units shall be limited to whether the appellant has been assigned to the appropriate unit number. If the council should determine that a different unit number should be assigned, it shall so order. Only where the council decision results in change in unit number will the filing fee on the appeal be refunded. The council decision shall be final.

(6) Appeals filed within 120 days of the effective date of the ordinance codified in this chapter shall not be subject to paying a filing fee. The appeal fee is fully refundable should the appellant adequately justify and secure the requested reassignment in billing category.

SECTION 10. Repeal

Ordinance 847, which was adopted April 4, 2023, is hereby repealed in its entirety.

PASSED BY CITY COUNCIL UPON ITS FIRST READING this ____ day of October 2024.

APPROVED BY CITY COUNCIL UPON ITS SECOND READING this ____ day of October 2024.

APPROVED BY THE MAYOR this _____ day of October 2024.

____
Matthew Hald, Mayor

ATTEST:

____

Joanna Bilbrey
City Recorder

Myrtle Creek - City Council Agenda Report

Agenda item: Legislation Amendment – Street Utility Fee

Meeting Date:	October 1, 2024	Primary Staff Contact:	Lonnie Rainville
Department:	Administration	E-Mail:	lrainville@myrtlecreek.org
Secondary Dept.:		Secondary Contact:	

Issue before the Council:

Legislative review to approve Ordinance 864 an ordinance to replace and replace Ordinance 10-003 and amend Chapter 3.30 of Myrtle Creek Municipal Code (MCMC).

Staff Recommendation:

Staff recommends approval of Ordinance 864, an ordinance to repeal and replace Ordinance 10-003 and amend MCMC Chapter 3.30 – Street Utility Fee.

Background:

The Code Review Board approved recommendations for amendments to sections of Title 3 of the Myrtle Creek Municipal Code. The recommended changes are to Chapter 3.30 Street Utility Fee. The amendments are also to City Ordinance 10-003. Ordinance 864 will repeal and replace Ordinance 10-003 and amend Chapter 3.30 of the Municipal Code. The recommended changes are attached, as an exhibit, to Ordinance 864.

Related City Policies:

Myrtle Creek Municipal Code Chapter 3.30
City Ordinance 10-003

Fiscal Impact:

No fiscal impact

Council Options:

Council can approve Ordinance 864, repealing and replacing Ordinance 10-003 and amending MCMC Chapter 3.30

Council can take no action

Potential Motion:

I make the motion to approve Ordinance 864, an ordinance amending MCMC Chapter 3.30 Street Utility Fee and repealing and replacing Ordinance 10-003.

CITY OF MYRTLE CREEK

ORDINANCE NO 864

AN ORDINANCE AMENDING THE MYRTLE CREEK MUNICIPAL CODE CHAPTER 3.30 STREET UTILITY FEE AND REPEALING AND REPLACING ORDINANCE NO. 10-003

WHEREAS, the Myrtle Creek Code Review Board has been tasked with reviewing the Myrtle Creek Municipal Code in its entirety; and

WHEREAS, the Myrtle Creek Code Review Board has recommended updates to Chapter 3.30 of the Myrtle Creek Municipal Code that more closely align with current operations; and

WHEREAS, the City Council finds that the proposed amendments are in the best interest of the citizens of the City of Myrtle Creek and that the enactment of this Ordinance is necessary to preserve the health, safety and general welfare of the City of Myrtle Creek; and

NOW THEREFORE, THE CITY OF MYRTLE CREEK ORDAINS AS FOLLOWS:

Chapter 3.30 of the Myrtle Creek Municipal Code, Street Utility Fee, shall now read as follows:

SECTION 1. Definitions.

For the purposes of this chapter, the following terms are defined as follows:

"City street system" or "street system" means all transportation-related components located on city-owned property, city right-of-way or city easements within the city limits that the city is contractually or legally obligated to operate and maintain. The components include streets, alleys, curbs and gutters, bridges, sidewalks and paths, including improvements and installations related to any and all components, which are designated for use by motor vehicles, pedestrians, bicycles or other vehicle use.

"Developed property" or "developed use" means a parcel or lot of real property upon which any improvement exists, and upon which activities occur that generate or receive motor vehicle traffic. Improvement on developed property includes, but is not limited to, buildings, parking lots, landscaping and outside storage.

"Dwelling" or "dwelling unit" means one or more habitable rooms that are occupied or that are intended or designed to be occupied by one family with ~~housekeeping~~ housing facilities for living, sleeping, sanitary facilities, cooking and eating.

"Multifamily residential" means property with a building consisting of two or more dwelling units, including, but not limited to, apartments, townhouses, condominiums and duplexes.

“Nonresidential” means a use of property that is primarily not for single-family or multifamily dwellings.

“Occupied unit” means any structure or any portion of any structure occupied for residential, commercial, industrial, or other purposes. For example, in a multifamily residential development, each dwelling unit shall be considered a separate occupied unit when occupied, and each retail outlet in a shopping mall shall be considered a separate occupied unit. In the case of short term rentals, such as Airbnb and VRBO, occupied means advertised and available for tenant stays.An occupied unit may include more than one structure if all structures are part of the same dwelling unit or commercial or industrial operation. For example, an industrial site with several structures that form an integrated manufacturing process operated by a single manufacturer constitutes one occupied unit. Property that is undeveloped or, if developed, is not in current use with city utilities turned off is not considered an occupied unit.

“Person responsible” means the utility customer or the person or persons who by usage, occupancy or contractual arrangement are responsible to pay the city utility bill for an improved premises.

“Single-family residential” means property with a building consisting of a single, detached dwelling unit.

SECTION 2. Street utility fee established.

A street utility fee is hereby established, in an amount to be determined, and adjusted ~~from time to time~~ as needed, by resolution of the city council. Fees charged to the person responsible shall be based on a per occupied unit. Such fee shall be established in such amounts which will provide sufficient funds to properly maintain local streets throughout the city.

SECTION 3. Exceptions to street utility fee.

The following shall not be subject to the street utility fee:

(1) City-owned parking lots, which are not associated with public services other than parking.

(2) Publicly owned parkland, open spaces, and greenways, unless public off-street parking designed to accommodate the use of such areas is provided.

SECTION 4. Use of funds.

All funds collected pursuant to this chapter shall be paid into the street utility fund. Such revenues shall be used to pay costs of operation, maintenance, repair, engineering, improvement, renewal, replacement and reconstruction of the city street system. It shall not be necessary that the maintenance and repair expenditures from the street utility fund specifically relate to any particular property from which the fees for said purposes were collected.

SECTION 5. Street utility fee structure.

(1) The street utility fee shall be based on a per unit fee on developed property. Each dwelling unit shall be considered a separate occupied unit when occupied, and each retail outlet in a

shopping mall shall be considered a separate occupied unit. An occupied unit may include more than one structure if all structures are part of the same dwelling unit or commercial or industrial operation. Property that is undeveloped or, if developed, is not in current use with city utilities turned off is not considered an occupied unit. The following is an example representing a $~~3~~.00-per-unit fee:

(a) Single-family residential unit: one unit times $~~3~~ 4.00 equals $~~3~~ 4.00 per month.

(b) Multifamily residential unit with four units: four times $~~3~~ 4.00 equals $~~12~~ 16.00 per month.

(c) Commercial/industrial unit with three retail shops: three times $~~3~~ 4.00 equals $~~9~~ 12.00 per month.

An industrial site with several structures that form an integrated manufacturing process operated by a single manufacturer constitutes one occupied unit.

(2) The city administrator shall determine the unit classification for developed property.

SECTION 6. Billing and collection of fees.

(1) The street utility fee shall be billed and collected with and as part of the monthly water and sewer bill for those lots or parcels utilizing city water and/or sewer, and billed and collected separately for those lots or parcels not utilizing city water and/or sewer. In cases where a developed property is subject to water and sewer utility charges, the street utility fee bill shall be directed to the same person as the bill for water and sewer charges. In the case of those lots or parcels which are not occupied by the owner, the fee shall be billed with the monthly water and sewer bill, if any, which is billed to the resident of the property, unless the owner of the property requests that the combined utility bill be sent to another address. If a tenant in possession of any premises pays such fee, such payment shall relieve the owner from such obligation and lien, but the city shall not be required to look to any person other than the owner for the payment of such fees. All such bills shall be rendered monthly and shall become due and payable upon receipt.

(2) All charges for street service during any month shall be paid no later than 30 days after the billing date. Bills which remain unpaid for more than 30 days after the billing date shall be considered delinquent. If a customer's account remains delinquent for more than 10 days, the water service may be turned off at the premises against which the delinquent street charges are owed. When so turned off, the water shall not be turned on again until a reconnect fee established in the city of Myrtle Creek handbook of fees and charges, plus the delinquent portion of the customer's street account balance, has been paid. If the customer's account remains delinquent for more than 30 days, the amount owed shall be deducted from the customer's water service account deposit, the customer's street, sewer and water accounts may be closed and any remaining deposit balance shall be returned to the customer at the customer's last known mailing address. The customer shall be responsible for keeping the city informed as to the customer's current mailing address. The customer shall be defined as the person or persons in whose name the utility service account is registered.

(3) If the street utility fee is not paid when due, the city administrator may proceed to collect such charges in any manner provided by law.

(4) Street service charges shall continue to be levied against the customer's account until a vacancy occurs, or in the case of a delinquent account, until the city turns off the water service.

SECTION 7. Waiver of fee in case of vacancy.

(1) When any property within the city becomes vacant, and water service is discontinued, a waiver of the street utility fee may be granted by the city administrator upon written application of the person responsible, including a signed statement, affirming under penalty of perjury that the property is vacant, and upon payment of all outstanding water, sanitary sewer, and street utility charges.

(2) For purposes of this section, "vacant" shall mean that an entire building or utility billing unit has become vacant or continuously unoccupied for at least 30 days. "Vacant" shall not mean that only a portion of a property without a separate water meter has become vacant or unoccupied.

(3) Fees shall be waived in accordance with this section only while the property remains vacant. The person responsible shall notify the city within five days of the premises being occupied, partially occupied or used, regardless of whether water service is restored.

SECTION 8. Appeal.

(1) Any property owner who disputes any interpretation given by the city as to the assigned billing category may appeal such interpretation. A property owner or their agent desiring an interpretation or other examination of the property owner's street utility fee shall submit a written application to the city administrator. The application shall be submitted in sufficient detail to enable the city administrator to render an interpretation.

(2) Within 30 days of the submission of an application for interpretation together with the required information, the city administrator shall cause a final decision to be made on the application. The decision shall be written and shall include findings of fact and conclusions for the particular aspects of the decision, based upon applicable criteria. A copy of the decision shall be mailed to the person submitting the request. The city administrator shall maintain a collection of such decisions.

(3) If the decision of the city administrator affects the unit fee of the property owner requesting the interpretation, the city administrator shall assign a new unit fee. If a change in unit fee is assigned, the appropriate change may be made in the applicable fee to charge in the future. Back charges or refunds shall be allowed up to 60 days, two billing cycles.

(4) Decisions of the city administrator may be further appealed to the city council, and shall be heard at a public meeting. An owner who disputes an interpretation made by the city administrator as to the assigned unit fee under this chapter shall submit a written appeal to the city council within 10 days from the date of the city administrator's decision, together with a filing fee established by resolution in the handbook of fees and charges. The application for

appeal shall specify the reasons therefor. Appeals shall be limited to the issue of whether the appropriate unit number has been assigned to the particular property.

(5) The city administrator shall schedule the matter for city council review and notify the appellant not less than 10 days prior to the date of such council review. The council shall conduct a hearing during a public meeting and determine whether there is substantial evidence in the record to support the interpretation given by the city administrator. The council may continue the hearing for purposes of gathering additional information bearing on the issue. The council shall make a tentative oral decision and shall adopt a final written decision together with appropriate findings in support. The decision of the council with respect to the unit or units shall be limited to whether the appellant has been assigned to the appropriate unit number. If the council should determine that a different unit number should be assigned, it shall so order. Only where the council decision results in change in unit number will the filing fee on the appeal be refunded. The council decision shall be final.

(6) Appeals filed within 120 days of the effective date of the ordinance codified in this chapter shall not be subject to paying a filing fee. The appeal fee is fully refundable should the appellant adequately justify and secure the requested reassignment in billing category.

SECTION 9. Repeal

Ordinance 10-003, which was adopted August 17, 2010, is hereby repealed in its entirety.

PASSED BY CITY COUNCIL UPON ITS FIRST READING this ____ day of October 2024.

APPROVED BY CITY COUNCIL UPON ITS SECOND READING this ____ day of October 2024.

APPROVED BY THE MAYOR this _____ day of October 2024.

____
Matthew Hald, Mayor

ATTEST:

____

Joanna Bilbrey
City Recorder