

Agenda
Shady Cove Regular City Council Meeting
Thursday, July 7, 2022
6 PM

<https://us02web.zoom.us/j/88144766626?pwd=Dp8ZlhDbGmdlZyTezswRO49PF9lM8c.1>

Meeting ID: 881 4476 6626

Passcode: 907725

One tap mobile

+16699006833,,88144766626#,,,,*907725# US (San Jose)

+12532158782,,88144766626#,,,,*907725# US (Tacoma)

I. Call to Order

- A. Roll Call
- B. Pledge of Allegiance
- C. Announcements by Presiding Officer

- 1. This meeting is being digitally recorded.
- 2. The next regularly scheduled meeting of the City Council will be held on July 21 at 6 PM, both in Council Chambers and via Zoom.
- 3. The next regularly scheduled meeting of the Planning Commission is July 14 at 6 PM, both in Council Chambers and via Zoom.
- 4. The next meeting of the Parks and Rec Commission is not scheduled at this time.
- 5. The next meeting of the Emergency Management Commission is not scheduled at this time.
- 6. The next meeting of the Events Committee is July 8 at 1 PM at the Shady Cove Library.
- 7. Public may comment on agenda items - Public must state name, address and standing to discuss an issue. Issues must have a City-wide impact and not be personal issues. Depending on number of comments and time constraints, Council may limit the amount of time to 3 minutes per speaker.
- 8. These meeting dates and times are subject to change.

II. Public Comment on Agenda Items

III. Consent Agenda (pgs 3-8)

- A. Bills Paid Report 06/16/22 - 07/01/22, \$56,521.71
- B. Minutes of 06/23/2022

IV. Items Removed from Consent Agenda

V. Staff Reports

- A. Jackson County Deputy
- B. Fire Chief Winfrey, FD4
- C. Commission/Committee Reports
- D. City Administrator

VI. New Business

- A. SDC Credit Request Brewed Awakenings (language pending City Attorney)
- B. Discuss SDCs (pgs 9-18)

VII. Old Business

VIII. Written Communication

IX. Public Comment on Non-Agenda Items

X. Council Comments on Non-Agenda Items

- A. Mayor Tarvin
- B. Councilor Evertt
- C. Councilor Murders
- D. Councilor Taylor
- E. Councilor Winfrey

Adjournment

Report Criteria:
 Summary report type printed

Vendor Number	Name	Invoice Number	Description	Invoice Date	Invoice Amount	Discount Amount	Check Amount	Check Number	Check Issue Date
24	Canon Financial Services, I	28716781	Contract 06/01/22-06/30/22	06/11/2022	203.82	.00	203.82	50419	06/23/2022
Total 24:					203.82	.00	203.82		
26	Cantel of Medford, Inc.	27780	Stolen Fireworks Sign Repl	06/15/2022	430.00	.00	430.00	40415	06/16/2022
Total 26:					430.00	.00	430.00		
33	CNA Surety	61093724-1	Bond/Policy	06/20/2022	455.00	.00	455.00	50420	06/23/2022
Total 33:					455.00	.00	455.00		
39	Crystal Fresh	682496	City Hall bottled water 05/0	05/31/2022	54.50	.00	54.50	50421	06/23/2022
Total 39:					54.50	.00	54.50		
43	David Christian	JUNE 13, 20	Radio 06/13-06/17/22	06/13/2022	90.00	.00	90.00	50422	06/23/2022
Total 43:					90.00	.00	90.00		
61	Hornecker Cowling, LLP	121226	General - Acct 32076-001	06/21/2022	1,770.32	.00	1,770.32	50424	06/23/2022
Total 61:					1,770.32	.00	1,770.32		
72	Jackson County Recycling	JUNE 10, 20	Waste Reduction, Reuse &	06/10/2022	303.00	.00	303.00	50427	06/23/2022
Total 72:					303.00	.00	303.00		
74	Jackson County Sheriff	SCMAY2022	CSO JUNE 2022	06/17/2022	3,533.92	.00	3,533.92	50428	06/23/2022
		SCMAY22	Law Enforcement June 202	06/17/2022	43,426.92	.00	43,426.92	50428	06/23/2022
Total 74:					46,960.84	.00	46,960.84		
88	League of Oregon Cities	2022-R16418	T Corrigan Registraton	03/02/2022	79.00	.00	79.00	50429	06/23/2022
		2022-R16419	Michele Rowden Registrati	03/02/2022	79.00	.00	79.00	50429	06/23/2022
Total 88:					158.00	.00	158.00		
126	Postmaster	JUNE 2022	Replenish Indicia Account f	06/20/2022	1,050.00	.00	1,050.00	50432	06/23/2022
Total 126:					1,050.00	.00	1,050.00		
221	Hunter Communications	205798	Phone/Internet June 2022	07/01/2022	590.82	.00	590.82	50425	06/23/2022
Total 221:					590.82	.00	590.82		
256	J & J Tree Service, LLC	51622	Remove dead tree at Fireh	05/16/2022	2,400.00	.00	2,400.00	50426	06/23/2022
Total 256:					2,400.00	.00	2,400.00		
257	AT&T Mobility	2872860888	Cell phones June 2022	06/05/2022	180.12	.00	180.12	50418	06/23/2022
Total 257:					180.12	.00	180.12		

Vendor Number	Name	Invoice Number	Description	Invoice Date	Invoice Amount	Discount Amount	Check Amount	Check Number	Check Issue Date
258	WECO - Carson	CP-00198113	Gas/Diesel 06/01-06/15/22	06/16/2022	521.75	.00	521.75	50433	06/23/2022
Total 258:					521.75	.00	521.75		
268	Project A, Inc.	22-0968	Word Press Development a	06/15/2022	200.00	.00	200.00	40417	06/16/2022
Total 268:					200.00	.00	200.00		
277	GDMI Enterprises, Inc.	618699	Vehicle Maintenance	06/23/2022	191.54	.00	191.54	50423	06/23/2022
Total 277:					191.54	.00	191.54		
310	Local Government Law Gr	63308	Matter 12-1588-007	05/25/2022	42.00	.00	42.00	50430	06/23/2022
Total 310:					42.00	.00	42.00		
430007	Oregon Association of May	2022-R17272	OMA membership and Mari	06/14/2022	420.00	.00	420.00	50431	06/23/2022
Total 430007:					420.00	.00	420.00		
430068	Frankie Hernandez	042522	Music in the Park 6-18-22	04/25/2022	500.00	.00	500.00	40416	06/16/2022
Total 430068:					500.00	.00	500.00		
Grand Totals:					56,521.71	.00	56,521.71		

Report Criteria:
 Summary report type printed

City of Shady Cove
City Council Regular Meeting and Public Hearing for Budget
Thursday, June 23, 2022, 6:00 PM
Meeting was held at City Hall and also via Zoom.

I. CALL TO ORDER

Mayor Tarvin called the Regular City Council Meeting to order at 6:00 PM

Council Present: Mayor Tarvin, Councilor Evertt, Councilor Murders, Councilor Taylor, Councilor Winfrey

Staff Present: Thomas J. Corrigan, City Administrator

The Pledge of Allegiance was recited.

ANNOUNCEMENTS

The Mayor made the announcements on the agenda.

PUBLIC HEARING

Mayor Tarvin read the Public Hearing Opening Statement and Rules of Conduct
Hearing opened at 6:04 PM.

Hank Hohenstein commented on the Budget processes throughout history.

Sue Krupa commented on the increase of Promotion and Tourism funds.

Julie Barnes also commented on Promotion and Tourism funds.

Staff explained updated Budget documents since Budget Committee meeting.

Hearing closed at 6:17 PM.

Councilor Winfrey questioned the Flag Program income.

Councilor Evertt commented on the City Flag Program for businesses.

Councilor Taylor gave kudos to the Budget Chair and the process.

Resolutions were all read.

Motion to Adopt Resolution 22-02 A Resolution of the City of Shady Cove, Oregon Certifying that the City of Shady Cove Provides Four or More Municipal Services Enumerated in ORS 221.760

Motion: Councilor Evertt

Second: Councilor Murders

Motion Carried: 5-0

Motion to Adopt Resolution 22-03 A Resolution of the City Council of the City of Shady Cove, Oregon Declaring the City of Shady Cove's Election to Receive State Revenues

Motion: Councilor Murders

Second: Councilor Evertt

Motion Carried: 5-0

Motion to Adopt Resolution 22-04 A Resolution of the City Council of the City of Shady Cove, Oregon, Adopting the Fiscal Year 2022-2023 Budget Making Appropriations and Imposing and Categorizing Taxes

Motion: Councilor Murders Second: Councilor Winfrey
Motion Carried: 5-0

II. PUBLIC COMMENT ON AGENDA ITEMS

None

III. CONSENT AGENDA

Items in Consent Agenda

- A. Bills Paid Report 05/26/22-06/15/22 \$17,957.62
- B. Minutes of 06/02/22

Motion to Accept Consent Agenda:

Motion: Councilor Evertt Second: Councilor Murders
Motion Carried: 5-0

IV. ITEMS REMOVED FROM CONSENT AGENDA

None

V. STAFF REPORTS

- A. Deputy Violette – Brought updated numbers of calls for Shady Cove broken down by types of calls such as Requests for Service, Civil, Domestic, and Suspicious Individuals. Not a huge rise in calls. Burglaries were at a normal rate. Councilor Murders appreciated the deputy's follow up on this report.
- B. Chief Greg Winfrey, Fire District 4 – Calls under 100 at 96. Rogue Valley Fire and Rescue Alliance formed to share resources and training.
- C. Hank Hohenstein, Planning Commission Chair – Updates on Planning Commission items including Bed-n-Breakfast denial and Truck parking on Dr Murphy's land.
- D. City Administrator – Violation Notice handed over to Planning Commission regarding pigs as pets. Met with contractor for Cleveland St project. ODOT will pay contractor directly for truncated dome cross walk issue. Rene needs to have work done. It is over a mile long. Riverview has a spring in the middle of it, City Engineer is investigating a plan to fix that. ODOT having another meeting on Safe Routes to School funding. Looking to begin bench and pad project along with Firewise plantings. Restroom at Park got tagged, needing repainting. New fireworks sign going up with security attachments. Brining back to Council request for change of business license Ordinance to add penalty for lack of payments. Having another meeting with Jackson County emergency managers, Fire District 4 and County workers on evacuation zones. New evacuation map will be provided. The County now has a Smoke Plan. No appeals have been received after the recent LUBA decision in the City's favor.

VI. NEW BUSINESS

No Supplemental Budget Hearing

SDC Credit Transfer – Owners of Brewed Awakenings requested SDC credit for Transportation SDC which would be \$73,809.45 and not feasible for them.

Motion to have City Attorney draw up guidelines for SDC credit on a case-by-case request and give credit to Brewed Awakenings at 21287 Hwy 62 for Transportation SDCs.

Motion: Councilor Evertt Second: Councilor Winfrey
Motion Carried: 5-0

Motion to Appoint Andrea Bowling to the Planning Commission

Motion: Councilor Evertt Second: Councilor Taylor
Motion Carried: 5-0

VII. OLD BUSINESS

None

VIII. WRITTEN COMMENT

None

IX. PUBLIC COMMENT ON NON-AGENDA ITEMS

Julie Barnes commented on signs posted relative to URCC and Events Committee and procedure of Events Committee.

**X. COUNCIL COMMENTS ON
NON-AGENDA ITEMS**

- A. Councilor Taylor – Dismayed at sign movement. Welcome more input from citizens. Would like to see Town Hall meetings again. Appreciate Events Committee work.
- B. Councilor Winfrey – Commented on Chair Hohenstein’s comments regarding John Calvin. Sign situation was sad. Budget process was daunting.
- C. Councilor Murders – Extend appreciation regarding citizens discussing SDC issue. Summer is here, heat is up, stay hydrated. Excited about events happening.
- D. Councilor Evertt – Thank everyone for coming tonight. Happy 4th of July to everyone as our next meeting will be after the holiday. NO fireworks!
- E. Mayor Tarvin – Fireworks sign had to be replaced at a cost of \$400. Lake is full and cold. Wear life jackets. Conference trainings coming up in the Fall. Need to look at SDCs. Thank you all for coming and stay safe.

IX. ADJOURNMENT

There being no further business before the Council, the Mayor adjourned the meeting at 7:41 PM.

Approved:

Attest:

Shari Tarvin
Mayor

Thomas J. Corrigan
City Administrator

Council Vote:

Mayor Tarvin
Councilor Evertt
Councilor Murders
Councilor Taylor
Councilor Winfrey

City of Shady Cove

Ordinance No. 300

AN ORDINANCE OF THE CITY OF SHADY COVE, OREGON ADOPTING SYSTEM DEVELOPMENT CHARGES FOR THE CITY OF SHADY COVE, OREGON AND REPEALING ORDINANCE 271.

Whereas, the City Council of the City of Shady Cove enacted, pursuant to the authority set forth in in ORS 223.297 et Seq., Ordinance No. 209, on 05/01/2003, and subsequently amended by Ordinance No. 230, on 06/02/2005, providing the overall City implementing policy and procedures for System Development Charges (SDC's); and

Whereas, the City Council of the City of Shady desires to update and fully incorporate and consolidate policies and procedures relating to System Development Charges into one Ordinance;

THE COUNCIL OF THE CITY OF SHADY COVE ORDAINS AS FOLLOWS:

35.1.1 Purpose

The Purpose of the System Development Charge is to impose a portion of the cost of capital improvements for parks, wastewater, flood control, and streets upon those developments and redevelopments that increase the demands on parks, wastewater, stormwater and streets.

35.1.2 Definitions

The following definitions apply to Chapter 35.01 of this code:

- A. Capital Improvements – public facilities or assets used for the following systems:
 - a. Parks and recreation;
 - b. Wastewater collection, transmission, treatment, or disposal or any combination;
 - c. Drainage or flood control; or
 - d. Transportation.
- B. Contiguous – in a public way which abuts the parcel
- C. Council – the City Council of the City of Shady Cove, Oregon

- D. Development – all improvements to a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage or activities. Development includes redevelopment of property. Development includes improved open areas such as plazas and walkways but does not include natural geologic.
- E. Improvement Fee – a fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to § 35.01.03.
- F. Owner - the owner or owners of record title or the purchaser or purchasers under a recorded land sales agreement, and other persons having an interest of record in the described real property.
- G. Parcel of Land - a lot, parcel, block or other tract of land that in accordance with City regulations 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.
- H. Permittee - the person to whom a building permit, development permit, a permit or plan approval to connect to the sewer or water system, or right-of-way access permit is issued.
- I. Qualified Public Improvement - a capital improvement that is:
 - a. Required as a condition of development approval;
 - b. Identified in the plan adopted pursuant to §35.01.07; and either:
 - i. Not located on or contiguous to a parcel of land that is the subject of the development approval; or
 - ii. Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.
- J. Reimbursement Fee - a fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to §35.01.03, and for which the Council determines capacity to exist.
- K. System Development Charge - a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of capital improvements, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. A 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

35.1.3 System Development Charge Established

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.

35.1.4 Methodology

The methodology used to establish or modify the reimbursement fee shall, where applicable, be based on 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 cost of the unused capacity of existing facilities, rate-making principals 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.

The methodology used to establish or modify the improvement fee shall, where applicable, demonstrate consideration of 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.

The methodology used to establish or modify the improvement fee or the reimbursement fee, or both, shall be contained in a resolution adopted by the Council.

35.1.5 Authorized Expenditures

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

Improvement fees shall be spent only on capacity increasing capital improvements associated with the system for which the fee is assessed, 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 providing new facilities. The portion of the capital improvements funded by improvement fees must be related to demands created by current or projected development. 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 §35.01.07. Notwithstanding other provisions of this section, System Development Charge revenues may be expended on the direct costs of complying with the provisions of this chapter, including the costs of developing System Development Charge methodologies and providing an annual accounting of system development expenditures.

35.1.6 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 the operation or routine maintenance of capital improvements.

35.1.7 Improvement Plan

Prior to the establishment of a System Development Charge, the Council shall adopt a plan that includes a list of:

- A. The capital improvements that the Council intends to fund in whole or in part with improvement fee revenues; and
- B. The estimated cost and time of construction of each improvement and the percentage of that costs eligible to be funded with improvement fee revenues; and
- C. A description of the process for modifying the plan.

In adopting this plan, the council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section.

- A. At least 30 days prior to adoption of the proposed modification, provide written notice to persons who have requested notice pursuant to §35 .01.12; and
- B. Hold a public hearing if a written request for a hearing is received within seven days of the date of the proposed modification.

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 amount is based on the periodic application of one of the construction cost indices published by the Engineering News Record.

35.1.8 Collection of Charge

The System Development Charge is payable upon the issuance of:

- A. A building permit; or
- B. A development permit; or
- C. A development permit for development not requiring the issuance of a building permit; or

D. A permit or approval to connect to the sewer system; or

E. A right-of-way access permit.

A Land Use Approval Form does not trigger the payment of System Development Charges.

If no building, development, or access permit is required, the System Development Charge is payable at the time the usage of the capital improvement is increased based on the changes in the use of the property unrelated to seasonal or ordinary fluctuations in usage.

If development is commenced or connection is made to the sewer system without an appropriate permit, the System Development Charge is immediately payable upon the earliest date that a permit was required.

The City Administrator shall collect the applicable System Development Charge from the permittee when a permit that allows building or development of a parcel is issued. The City Administrator shall not issue such permit or allow such connection until the charge has been paid in full, or until a provision for installment payments has been made pursuant to §35.01.09, or unless an exemption is granted pursuant to §35.01.10.

35.1.9 Installment Payments

When a System Development Charge is due and collectible, the owner of the parcel of land subject to the System Development Charge may apply for payment in 20 semiannual installments, to include interest on the unpaid balance, in accordance with ORS 223.208.

The City Administrator shall provide application forms for installment payments, which shall include a waiver of all rights to contest validity of the lien, except for the correction of computational errors.

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

The City Administrator shall docket the lien in the lien docket. From that time the City shall have a lien upon the described parcel for the amount of the System Development Charge, together with interest on the unpaid balance at the rate established by the Council. The lien shall be enforceable in the manner provided in ORS Chapter 223.

The City Administrator is authorized to cancel assessments of System Development Charges, without further Council action, when the development approved by the building permit is not constructed and the building permit is cancelled.

For property that has been subject to a cancellation of assessment of System Development Charges, a new installment payment contract shall be subject to the code provisions applicable to System Development Charges and installment payment contracts on file on the date the new contract is received by the City.

35.1.10 Exemptions

Structures and uses established and legally existing on or before the effective date of this chapter are exempt from a System Development Charge 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 sewer charges pursuant to the terms of this ordinance upon the receipt of a permit to connect to the sewer system.

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.

An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the capital improvements are exempt from all portions of the System Development Charge.

35.1.11 Credits

When a development occurs that is subject to a System Development Charge, the System Development Charge for the existing use, if applicable, shall be calculated and, if it is less than the System Development Charge for the use that will result from the development, the difference between the System Development Charge for the existing use and the System Development Charge for the proposed use shall be the System Development Charge. If the change in use results in the System Development Charge for the proposed use being less than the System Development Charge for the existing use, no System Development Charge shall be required. No refund or credit shall be given unless provided by another paragraph of this section.

A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the City of the public improvement. The credit shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee and shall only be for the improvement fee charged for the type of improvement being constructed.

If a qualified public improvement is located in whole or in part on or contiguous to the property that is the subject of the development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the City's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating

that a particular improvement qualifies for credit under this paragraph. The request for credit shall be filed in writing no later than 60 days after acceptance of the improvement by the City. The City may deny the credit provided for in this paragraph if the City demonstrates that the application does not meet the requirements of this section or if the improvement for which credit is sought was not included in the improvement plan pursuant to §35.01.07.

When the construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.

Notwithstanding the previous paragraphs of this section, when establishing a methodology for a System Development Charge, the City may provide for a credit against the improvement fee, reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements, or a credit based upon any other rationale the Council finds reasonable.

Credits shall not be transferable from one development to another.

Credits shall not be transferable from one type of System Development Charge to another.

Credits shall be used within 5 years from the date the credit is given.

35.1.12 Notice

The City shall maintain a list of persons who have made a written request for notification prior to adoption or modification 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 first hearing to establish or modify a System Development Charge. The methodology supporting the System Development Charge 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 does not invalidate the action of the City.

The City may periodically delete names from the list, but at least 30 days prior to removing a name from the list, 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.

35.1.13 Segregation and Use of Revenue

All funds derived from the System Development Charge described in this chapter are to be segregated by accounting practices from all funds of the City. Those System Development Charges collected under this chapter shall be used for no purpose other than set forth in §35.01.05.

The City Administrator shall provide the Council with an annual accounting, by January 1 of each year, for System Development Charges showing the total amount of System Development Charge revenues collected for each type of facility and the projects funded from each account 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.

35.1.14 Refunds

Refunds may be given by the City Administrator upon finding that there was a clerical error in the calculation of a System Development Charge.

Refunds shall not be allowed for failure to timely claim credit or for failure to timely seek an alternative System Development Charge rate calculation at the time of submission of an application for a building permit.

35.1.15 Appeal Procedure

A person challenging the propriety of an expenditure of System Development Charge revenues may appeal the decision or the expenditure to the City Council by filing a written request with the finance director describing with particularity the decision of the finance director and the expenditure from which the person appeals. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

After providing notice to the appellant, the Council shall determine whether the City Administrator's decision or the expenditure is in accordance with this chapter and the provisions of ORS 223.297 to 223.214 and may affirm, modify, or overrule the decisions. If the Council determines that there has been an improper expenditure of System Development Charge revenues, the Council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent. The decision of the Council shall be reviewed only as provided in ORS 34.010 to 34.100, and not otherwise.

A legal action challenging the methodology adopted by the Council under this chapter shall not be filed later than 60 days after 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.

35.1.16 Prohibited Connection

No person may connect to the sewer system of the City unless the appropriate System Development Charge has been paid or the lien or installment payment method has been applied for and approved.

35.1.17 Construction

For the purposes of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply:

- A. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table, or illustrative table, the text shall control.
- B. The word, "shall", is always mandatory and not discretionary; the word, "may", is permissive.
- C. Words used in the present tense shall include the future; and words used in the singular number shall include the plural and the singular, unless the context clearly indicates the contrary.
- D. The purpose, "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".
- E. Where a regulation involves two or more connected items, provisions, or events;
 - a. "And" indicates that all the connected terms, conditions, provisions or events shall apply; and
 - b. "Or" indicates that the connected items, conditions, provisions, or events may singly or in any combination.
 - c. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instance of like kind or character.

35.1.18 Severability

The provisions of this chapter are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any clause, section or provision of this chapter shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this chapter shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. It is hereby declared to be the

Council's intent that this chapter would have been adopted had such an unconstitutional provision not been included herein.

35.01.18 Classification

The Council determines that any fee, rates or charges imposed by this chapter are not a tax subject to the property tax limitations of Article XI, section 11(b) of the Oregon Constitution.

PASSED AND APPROVED by the City Council of the City of Shady Cove, this _____ day of _____, 2021.

Approved:

Attest:

Shari Tavin
Mayor

Thomas J. Corrigan
City Administrator

Council vote:

Mayor Tavin _____
Councilor McGregor _____
Councilor Nuckles _____
Councilor Evertt _____