

**Title 3**

**REVENUE AND FINANCE**

**Chapters:**

- 3.04 Administrative Fees**
- 3.08 Transient Room Tax**
- 3.12 Local Improvements Procedure**
- 3.16 Marijuana Tax**

**Chapter 3.04**

**ADMINISTRATIVE FEES**

**Sections:**

**3.04.010 Fees.**

**3.04.010**

**Fees.**

The city council from time to time shall establish fees for city services by resolution.

Neither the city council, the city planning commission nor city staff shall consider any requests for city services until the related fees have been paid. (Ord. 928 § 2, 2001: Ord. 647 § 1, 1980; Ord. 643 §§ 1, 2, 1980)

**Chapter 3.08**

**TRANSIENT ROOM TAX**

**Sections:**

- 3.08.010**     **Definitions.**
- 3.08.020**     **Tax imposed—Amount.**
- 3.08.030**     **Rules for collection of tax by operator.**
- 3.08.040**     **Operator’s duties.**
- 3.08.050**     **Exemptions.**
- 3.08.060**     **Operator’s registration form.**
- 3.08.070**     **Collections—Returns—Payments.**
- 3.08.080**     **Penalties and interest.**
- 3.08.090**     **Failure to remit taxes due—Amount determined by city.**
- 3.08.100**     **Petition for redetermination and refund.**
- 3.08.110**     **Court action to collect delinquent tax.**
- 3.08.120**     **Liens for unpaid amounts.**
- 3.08.130**     **Refunds—City to operator.**
- 3.08.140**     **Refunds—City to transient.**
- 3.08.150**     **Refunds—Operator to transient.**
- 3.08.160**     **Records—Required.**
- 3.08.170**     **Records—Examination.**
- 3.08.180**     **Records—Confidentiality.**
- 3.08.190**     **Use of funds limited.**
- 3.08.200**     **Tourist information center.**
- 3.08.210**     **Tax review committee—Formed.**
- 3.08.220**     **Tax review committee—Duties.**
- 3.08.230**     **Appeals procedure.**
- 3.08.240**     **Violation—Penalty.**

**3.08.010**

**Definitions.**

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

“Accrual accounting” means a system of accounting in which the operator enters the rent due from a transient into the record when the rent is earned, whether or not it is paid.

“Cash accounting” means a system of accounting in which the operator does not enter the rent due from a transient into the record until the rent is paid.

“City” means the city of Sutherlin, Oregon.

“Hotel” means a facility that is occupied or designed for occupancy by transients for lodging or sleeping, including a hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel,

3.08.010

lodginghouse, roominghouse, mobilehome park, R.V. park, apartment house, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar facility.

“Occupancy” means the use or possession of, or the right to use or possess, a room in a hotel for lodging or sleeping.

“Operator” means a person who is the proprietor of a hotel in any capacity. When an operator’s functions are performed through a managing agent of a type other than an employee, the managing agent shall also be considered an operator. For purposes of this chapter, compliance by either the operator or the managing agent shall be considered compliance by both.

“Person” means an individual, firm, partnership, joint venture, association, social club,

fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or another group or combination acting as a unit.

“Rent” means the gross rent, exclusive of other services.

“Rent package plan” means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent, for determination of transient room tax under this chapter, shall be the same charge made for rent when consideration is not a part of package plan.

“Tax” means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

“Transient” means an individual who occupies or is entitled to occupy space in a hotel for a period of thirty (30) consecutive days or less, counting portions of days as full days. The day a transient checks out of a hotel shall not be included in determining the thirty (30) day period if the transient is not charged rent for that day. A person occupying space in a hotel shall be considered a transient until a period of thirty (30) days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenant actually extends occupancy more than thirty (30) consecutive days. A person who pays for lodging on a monthly basis, regardless of the number of days in the month, shall not be considered a transient. (Ord. 719 § 1, 1985)

### **3.08.020**

#### **Tax imposed—Amount.**

A transient shall pay a tax in the amount of eight percent of the rent charged for the privilege of occupancy in a hotel in the city. The tax constitutes a debt owed by the transient to the city, and the debt is extinguished only when the tax is remitted by the operator to the city. The transient shall pay the tax to the operator at the time rent is paid. The operator shall enter the tax into the record when rent is collected if the operator keeps records on the cash-accounting basis, and when earned if the operator keeps records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, rent paid or charged for occupancy shall exclude the sale of goods, services or commodities other than the furnishing of rooms, accommodations, and parking spaces in mobile home parks or trailer parks. (Ord. 1037 § 1, 2014; Ord. 719 § 2, 1985)

### **3.08.030**

#### **Rules for collection of tax by operator.**

A. Every operator renting space for lodging or sleeping shall collect a tax from the transient. The tax collected or accrued constitutes a debt owed by the operator to the city.

B. In cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectible accounts.

3.08.030

C. The city recorder will be the city's tax administrator and is responsible for the collection and transfer of funds to the tourism fund.

D. For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.  
(Ord. 719 § 3, 1985)

3.08.040

**3.08.040**

**Operator's duties.**

An operator shall collect the tax when the rent is collected from the transient. The amount of tax shall be stated separately in the operator's records and on the receipt given by the operator. An operator shall not advertise that the tax will not be added to the rent, that a portion of it will be assumed or absorbed by the operator, or that a portion will be refunded, except in the manner provided by this chapter. (Ord. 719 § 4, 1985)

**3.08.050**

**Exemptions.**

The tax shall not be imposed on:

- A. An occupant staying for more than thirty (30) consecutive days;
- B. An occupant whose rent is less than five dollars (\$5.00) per day;
- C. A person who rents a private home, vacation cabin or similar facility from an owner who personally rents the facility incidentally to the owner's personal use;
- D. Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for aged people. (Ord. 719 § 5, 1985)

**3.08.060**

**Operator's registration form.**

A. Every person engaging in or about to engage in business as an operator of a hotel in this city shall register with the tax administrator on a form provided by the city recorder. Operators engaged in business at the time the ordinance codified in this chapter is adopted must register not later than thirty (30) calendar days after passage of said ordinance. Operators starting business after said ordinance is adopted must register within fifteen (15) calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his place or places of business and such other information to facilitate the collection of the tax as the city recorder may require. The registration shall be signed by the operator. The city recorder shall, within ten days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business for each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the city recorder upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. Registration fees will not be charged by the city.

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

- 1. The name of the operator;

3.08.060

2. The address of the hotel;
3. The date upon which the certificate was issued; and
4. "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Room Tax Ordinance of the

City of Sutherlin by registration with the City Recorder for the purpose of collecting from transients the room tax imposed by said City and remitting said tax to the City Recorder. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws including but not limited to those requiring a permit from any Board, Commission, department or office of the City of Sutherlin. This certificate does not constitute a permit.” (Ord. 719 § 6, 1985)

### **3.08.070**

#### **Collections—Returns—Payments.**

A. The taxes collected by an operator are payable to the tax administrator on a monthly basis on the fifteenth day of the following month for the preceding month, and are delinquent on the last day of the month in which they are due.

B. A return showing tax collections for the preceding month shall be filed with the city recorder, in a form prescribed by the city recorder, before the last day of the month following each month.

C. The operator shall withhold ten percent of the tax to cover the expense of collecting and remitting the tax.

D. Returns shall show the amount of tax collected or due for the month. The city recorder may require returns to show the total rentals on which the tax was collected or is due, gross rental receipts of the operator for the period, a detailed explanation of any discrepancy between the amounts, and the amount of rentals exempt.

E. The operator shall deliver the return and the tax due to the city recorder’s office. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies. (Ord. 719 § 7, 1985)

### **3.08.080**

#### **Penalties and interest.**

A. Original Delinquency. An operator who fails to remit the tax prior to delinquency shall pay a penalty of ten percent of the tax due in addition to the tax.

B. Continued Delinquency. An operator who fails to pay a delinquent remittance before the expiration of thirty (30) days following the date on which the remittance became delinquent shall pay a second delinquency penalty of fifteen (15) percent of the tax due, the amount of the tax, and the ten-percent penalty first imposed.

C. Fraud. If the city recorder determines that nonpayment of a remittance is due to fraud or intent to evade the tax, a penalty of twenty-five (25) percent of the tax shall be added to the penalties stated in subsections A and B of this section.

D. Interest. In addition to the penalties imposed by this section, an operator who fails to remit the required tax shall pay interest at the rate of 1.5 percent per month, on the tax due, exclusive of penalties, from the date on which the tax first became delinquent until paid.

### 3.08.090

E. Penalties Merged with Tax. Each penalty imposed and the interest accrued under provisions of this section shall be merged with and become part of the tax required to be paid.

F. A person against whom a determination is made under this section, or a person financially interested in the determination, may petition the city manager for a review of the determination, if the petition is filed before the determination becomes final. If the petition is so filed, the city manager shall reconsider the determination, and if the person has so requested in his petition, shall grant the person an oral hearing and give him ten days' notice of the time and place of the hearing. The city manager may increase or decrease the amount of the determination as a result of the hearing. If an increase is determined, it shall be paid immediately after the hearing.

G. The decision of the city manager upon a petition for review is final unless an appeal is filed in accordance with Section 3.08.230.

H. No petition for such review may be filed unless the petitioner first pays the amount to which the petition pertains. (Ord. 719 § 8, 1985)

### 3.08.090

#### **Failure to remit taxes due—Amount determined by city.**

A. Deficiency Determination. If the city manager determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 3.08.080.

1. In making a determination the city manager shall offset overpayments, if any, which may have been previously made for a month or months, against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 3.08.080.

2. The city manager shall give to the operator or occupant a written notice of his determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the operator at his address as it appears in the records of the city. In case of service by mail or any notice required by this chapter, the service is complete at the time of deposit in the United States post office.

3. Except in the case of fraud, intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires the later.

4. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the city manager has given notice thereof; provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

B. Fraud, Refusal to Collect, Evasion. If any operator fails or refuses to collect the tax, or to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise wilfully attempts to evade this chapter, the city recorder shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the city recorder has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit the tax, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the city recorder shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the city recorder of any fraud, intent to evade or failure or refusal to collect the tax, or failure to file return. Any determination shall become final within ten days after the city recorder has given notice thereof; provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

C. Operator Delay. If the city recorder believes that the collection of any tax or any amount of tax required to be collected and paid to the city will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay same determination to the city recorder after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within ten days from the date of service of notice by the city recorder. (Ord. 719 § 9, 1985)

### **3.08.100**

#### **Petition for redetermination and refund.**

A. An operator against whom a determination is made under Section 3.08.090, or a person directly interested, may petition for a redetermination, redemption and refund. If a petition for redetermination and refund is not filed within the time required, the determination is final on expiration of the allowable time.

B. If a petition for redetermination and refund is filed within the allowable period, the city manager shall reconsider the determination and, if the operator requested a hearing in the petition, shall grant the hearing and give the operator ten days' notice of the time and place of the hearing. The city manager may continue the hearing if necessary.

C. The city manager may change the amount of the determination as a result of the hearing. If an increase is determined, the increase is payable immediately after the hearing.

D. The decision of the city manager on a petition for redetermination becomes final ten days after service of notice on the petitioner unless appeal of the decision is filed with the city council within ten days after notice is served.

E. A petition for redetermination or an appeal is not effective unless the operator has complied with the payment provisions. (Ord. 719 § 10, 1985)

3.08.110

**3.08.110**

**Court action to collect delinquent tax.**

Within three years after the tax becomes payable or within three years after a determination becomes final, the city recorder may bring an action in the name of the city in the courts of this state, another state, or the United States to collect the amount delinquent and penalties and interest. (Ord. 719 § 11, 1985)

**3.08.120**

**Liens for unpaid amounts.**

A. The tax, interest, penalty and filing fees paid to the city recorder, and any advertising costs incurred when the tax becomes delinquent, shall be a lien from the date of its recording with the county clerk until the tax is paid. The lien shall be superior to all subsequently recorded liens on all tangible personal property in the operator's hotel. The lien may be foreclosed and the necessary property may be sold to discharge the lien.

B. Notice of the lien shall be issued by the city recorder when the operator has defaulted in payment of the tax, interest and penalty. A copy of the notice shall be sent by certified mail to the operator.

C. Personal property subject to the lien may be sold at public auction after thirty (30) days' notice published in a newspaper of general circulation in the city.

D. A lien for the tax, interest and penalty shall be released by the city recorder when the full amount has been paid to the city. The operator or person making the payment shall receive a receipt stating that the full amount of the tax, interest and penalty has been paid, that the lien is released and that the record of the lien is satisfied. (Ord. 719 § 12, 1985)

**3.08.130**

**Refunds—City to operator.**

When the tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the city recorder, it may be refunded if a written, verified claim stating the specific reason for the claim is filed within three years from the date of payment. The claim shall be submitted on forms provided by the city recorder. If the claim is approved, the excess amount may be refunded to the operator or it may be credited to an amount payable by the operator and any balance refunded. The city recorder may refund tax, penalty or interest, if it has been erroneously or illegally collected or received at any time. (Ord. 719 § 13, 1985)

**3.08.140**

**Refunds—City to transient.**

If the tax has been collected by the operator and deposited with the city recorder and it is later determined that the tax was erroneously or illegally collected or received by the city recorder, it may be refunded to the transient if a written, verified claim stating the specific reason for the

claim is filed with the city recorder within three years from the date of payment. (Ord. 719 § 14, 1985)

**3.08.150**

**Refunds—Operator to transient.**

If the tax has been collected by the operator and it is later determined that the transient occupied the hotel for a period exceeding thirty (30) days without interruption, the operator shall refund the tax to the transient. The operator shall account for the collection and refund to the city recorder. If the operator has remitted the tax prior to refund or credit to the transient, the operator shall be entitled to a corresponding refund from the city. (Ord. 719 § 15, 1985)

**3.08.160**

**Records—Required.**

Every operator shall keep guest records, accounting books and records of room rentals for a period of three years and six months. (Ord. 719 § 16, 1985)

**3.08.170****Records—Examination.**

During normal business hours and after notifying the operator, the city recorder may examine books, papers and accounting records related to room rentals to verify the accuracy of a return or, if no return is made, to determine the amount to be paid. (Ord. 719 § 17, 1985)

**3.08.180****Records—Confidentiality.**

The city recorder or a person having an administrative or clerical duty under the provisions of this chapter shall not make known in any manner the business affairs, operations or information obtained by an investigation of records and equipment of a person required to file a return or pay a transient occupancy tax or a person visited or examined in the discharge of official duty; or the amount or source of income, profits, losses or expenditures contained in a statement or application; or permit a statement or application, or a copy of either, or a book containing an abstract or particulars to be seen or examined by any person. However, nothing in this section shall be construed to prevent:

A. Disclosure to or examination of records and equipment by a city official, employee or agent for collecting taxes for the purpose of administering or enforcing the provisions or collecting the taxes imposed by this chapter;

B. Disclosure, after filing a written request, to the taxpayer, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information concerning tax paid, unpaid tax, amount of tax required to be collected or interest and penalties;

C. Disclosure of names and addresses of persons making returns;

D. Disclosure of general statistics regarding taxes collected or business done in the city. (Ord. 719 § 18, 1985)

**3.08.190****Use of funds limited.**

All funds derived from the transient room tax shall be used solely to fund tourism promotion or tourism-related facilities in the Sutherlin area as the council may in the exercise of its discretion deem appropriate, provided that sixty-two and one half percent (62.5%) of the total amount of funds derived from the transient room tax shall be used solely to fund tourism promotion and thirty-seven and one half percent (37.5%) may be used to fund either tourism promotion or tourism-related facilities. (Ord. 1037 § 2, 2014; Ord. 824 (part), 1994; Ord. 719 § 19, 1985)

**3.08.200****Tourist information center.**

The city may contract with the Sutherlin Chamber of Commerce for the establishment, operation and management of a tourist information center within the city limits; to provide other

tourist development activities; and shall provide funds for this purpose only from the transient room tax. The Chamber of Commerce, or its designated committee, would be required to submit annually a budget to the city for review, amendment and adoption in the manner established at the time and followed by the city during the city budget process before funds can be spent. (Ord. 824 (part), 1994; Ord. 719 § 20, 1985)

**3.08.210****Tax review committee—Formed.**

The city council shall serve as the tax review committee. Four members of the committee shall constitute a quorum. The mayor shall be the chairman. The committee shall keep a record of its transactions and shall meet in the council chambers and keep its files in the city recorder's office. (Ord. 719 § 21, 1985)

3.08.220

**3.08.220**

**Tax review committee—Duties.**

The committee shall hear and determine appeals of orders or decisions of the city manager. The committee may affirm, modify or reverse a decision or dismiss an appeal. In reviewing a decision of the city manager, the committee may take evidence and make an investigation. It shall give notice of its determination in the manner prescribed for serving notice of a city manager's decision, and shall file a certified copy of each determination with the city manager. A determination becomes final after ten days and becomes due, subject to interest and penalties, and enforceable by the city recorder in the same manner as an order or decision of the city recorder. (Ord. 719 § 22, 1985)

**3.08.230**

**Appeals procedure.**

A person aggrieved by a decision of the city recorder may appeal with the city manager within ten days of service or mailing of the notice of a decision. The city manager shall fix a time and place for hearing the appeal and shall give the appellant ten days' written notice of the time and place of the hearing. After receiving evidence and comments about the grievance and reviewing it, the city manager shall make a recommendation about it and report that recommendation to the aggrieved person. He, if not satisfied with the recommendation, within ten days may lay his grievance before the city council, by submitting to the city council a true copy of the city manager's recommendation, together with a written statement why he finds the recommendation unsatisfactory. He shall at the same time submit to the city manager a true copy of the statement. The city manager shall then submit its recommendation to the city council, together with whatever explanatory supplement the city manager deems advisable. The city council shall then conduct whatever investigation of the grievance he deems advisable and make a determination regarding its merits and whatever action regarding it he deems most appropriate. (Ord. 719 § 23, 1985)

**3.08.240**

**Violation—Penalty.**

A violation of a provision of this chapter constitutes a violation. Every day in which a violation is caused or permitted to remain constitutes a separate violation. (Ord. 719 § 25, 1985)

## Chapter 3.12

### LOCAL IMPROVEMENTS PROCEDURE

#### Sections:

- 3.12.010** Purpose and definitions.
- 3.12.020** Requests for council consideration of a proposed project involving a local improvement.
- 3.12.030** City manager's preliminary report and recommendation on a proposed project involving a local improvement.
- 3.12.040** Council's preliminary consideration of proposed projects involving local improvements.
- 3.12.050** City manager's report on bids received for construction of a proposed project involving a local improvement—Recommendation on award of a contract.
- 3.12.060** Notice of public hearing on the possible formation of a local improvement district—Estimated assessments to be levied.
- 3.12.070** Public hearing regarding adoption of a resolution forming a local improvement district—Estimated maximum assessable costs to be levied as assessments.
- 3.12.080** Computation of estimated total assessable cost for local improvements.
- 3.12.090** Apportionment and determination of the estimated total assessable cost for local improvements.
- 3.12.100** City manager's report regarding completion of a local improvement—Determination of the actual total assessable cost.
- 3.12.110** Public hearing on proposed increase in estimated assessments for a completed local improvement.
- 3.12.120** Council adoption of an ordinance levying assessments for a completed local improvement.
- 3.12.130** Notice of assessments levied by ordinance.
- 3.12.140** Deferral of assessment payment—Eligibility criteria.
- 3.12.150** Agreement to defer, extend or modify assessment payments.
- 3.12.160** Interest on assessment payments deferred, modified or extended.
- 3.12.170** Termination of deferral, extension or modification of assessment payments.
- 3.12.180** Deferral, extension or modification of assessment payments—Liens.
- 3.12.190** Lien records and foreclosure proceedings.
- 3.12.200** Errors in assessment calculations.
- 3.12.210** Segregation of assessment.
- 3.12.220** Abandonment of proceedings.
- 3.12.230** Curative provisions.
- 3.12.240** Reassessments.

3.12.010

**3.12.250 Interim financing authorization.**

**3.12.010**

**Purpose and definitions.**

The purpose of this chapter is to govern the creation of local improvements and the payment of special benefit assessments. The Bancroft Bonding Act only applies when this chapter does not have a provision for dealing with the subject matter. For purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section:

“Bancroft Bonding Act” means as described in the Oregon Revised Statutes, Chapter 223 now enacted or as amended hereafter.

“Benefitted property” means all property specially benefitted by the local improvement portion of a project, the relative extent of such benefit to be determined by any just and reasonable method of apportionment of the assessable cost of the project between the properties determined to be specially benefitted therefrom.

“City” means the Oregon municipal corporation of Sutherlin, and “council” means the duly elected city council of the city of Sutherlin.

“Project” means any capital construction undertaken by the city involving a local improvement, which may include, but is not limited to a street, alley, sidewalk, street light, underground utility, sanitary or storm sewerage facilities, water utility facilities, off-street parking facility, flood control facility, park or neighborhood recreation facility.

“Local improvement” or “improvement” means that part of a project undertaken by the city which provides a special benefit to specific real property or rectifies a problem caused by specific real property where all or part of the costs are borne by local assessments levied against the property benefitted by the local improvement portion of a project.

“Local improvement district” means a geographic area designated by council in which the parcels of real property within the area receive special benefit from a local improvement constructed pursuant to this chapter.

“Remonstrance” means the written objection to a proposed local improvement district or the assessment levied thereon, to be made in a manner hereinafter provided.

“Total assessable cost” means that portion of the local improvement cost which is to be apportioned and assessed as a single assessment against each benefitted property.

“Total project cost” means the total cost of constructing a project involving a local improvement, including, but not limited to, engineering, interest on warrants, legal costs including advertising, providing notice to benefitted property owners and the city’s indirect or overhead costs, and shall include all assessable costs of the local improvement.

“Undeveloped real property” means a single parcel of land or several contiguous parcels of land in single ownership with an area free of permanent structures capable of being divided into three or more developable lots. (Ord. 868 § 1.005, 1997)

**3.12.020****Requests for council consideration of a proposed project involving a local improvement.**

A. An owner of real property which could be benefitted by a local improvement to be constructed by the city and financed entirely, or in part, by assessment against benefitted property, may request the council consider such improvement by filing a written request therefor with the city recorder who shall forward the request to the city manager for a recommendation on whether or not the requested improvement should be made. After reviewing the requested improvement, the city manager shall submit the recommendation to the city recorder, along with a report meeting the requirements of Section 3.12.030 which will be forwarded to the council for preliminary consideration. Upon receipt of the city manager's preliminary report and recommendation, the city recorder shall place the matter on the next available council agenda and notify the requesting property owner of the date and time council will consider the requested improvement; provided, the following conditions are met or satisfactory arrangements have been made with the city to satisfy such conditions:

1. The property owner requesting the local improvement is current on any and all obligations to the city;

2. If any property to be benefitted by the proposed local improvement is zoned other than single-family residential, the owner of such property is current on any and all financial obligations related to the real property to be benefitted by the proposed improvement and due any other public agency or financial institution;

3. If the property to be benefitted by the proposed improvement is undeveloped residentially zoned property, the estimated assessment, which will be due the city from the requesting property owner as a result of the improvement, does not exceed the property's assessed value as determined by the Douglas County assessor prior to the improvement being constructed;

4. If the improvement being requested would benefit real property in addition to that owned by the person requesting the improvement, the requesting property owner has presented to the city recorder, written verification from at least fifty (50) percent of the owners of other benefitted properties that they are not opposed to the proposed improvement or the subsequent proportionate assessment;

5. If the requested improvement would benefit only real property owned by the person requesting the improvement and the owner agrees in writing to pay cash or to make application to pay the cost of the improvement in installments as provided by the Bancroft Bonding Act and this chapter; agrees in writing to waive the right of service and publication of the notices required by this chapter; and consents, in writing, to the assessment of his property, council may, without further notice or hearing, form the local improvement district and proceed as provided in this chapter.

B. The city manager may request council consideration of a project involving a local improvement to be constructed by the city and financed entirely, or in part, by assessments against real property which would be benefitted by such improvement upon finding that the property owner(s) who would bear at least fifty (50) percent of the estimated total assessable cost

3.12.030

of the improvement are not opposed to the proposed improvement; that the proposed improvement is necessary for the public health and safety or for the economical and orderly development of the area of the city most affected by the proposed improvement; or that the initial cost of a water system improvement shall be paid by the property owners under a contract with the city that provides for repayment to the property owners as others connect their property to the water system improvement on terms and conditions set by the city. The city manager's request, along with the report required by Section 3.12.030 shall be filed with the city recorder who shall place the matter on the next available council agenda, provided that the conditions set out in subsection (A)(3) and (4) of this section are met.

C. The council, by its own motion, may initiate consideration of a project involving a local improvement to be constructed by the city and financed entirely, or in part, by assessments against properties which would be benefitted by the improvement by preliminarily defining the proposed project, the project boundaries, the local improvement portion of the project and the local improvement district boundaries; directing the city manager to prepare and file the report required by Section 3.12.030; and directing the city recorder upon receipt of such report from the city manager, to schedule the matter on the next available council agenda. (Ord. 868 § 1.010, 1997)

**3.12.030**

**City manager's preliminary report and recommendation on a proposed project involving a local improvement.**

A. Before any request for a project involving a local improvement is submitted for council consideration under Section 3.12.040, the city manager shall file a report with the city recorder providing the following information:

1. A map showing the general nature, location and extent of the proposed project and the local improvement portion thereof, and if the improvement involves multiple properties owned by more than one owner, the contemplated local improvement district boundaries;
2. The name and address of the owner, and the tax lot and account number and a legal description, of each parcel of property which would be benefitted by, and assessed for, the proposed improvement;
3. A preliminary estimate of the total project cost, which shall include a breakdown showing the estimated total assessable cost and its apportionment to each benefitted property, and the estimated amount, if any, which may be borne by the city and others; and
4. The estimated date work on the proposed project could begin and the estimated date by which the project, and the local improvement portion thereof, could be completed.

B. Upon receipt of the city manager's report prepared in accordance with subsection A of this section, the city recorder shall schedule the matter on the next available council agenda. (Ord. 868 § 1.020, 1997)

**3.12.040****Council's preliminary consideration of proposed projects involving local improvements.**

A. At the designated council meeting, the council shall consider requests for proposed projects involving local improvements submitted under Section 3.12.020.

B. After considering the city manager's preliminary report and recommendation, the council shall determine if it is in the best interest of the city to proceed with the proposed project and local improvement. The council, by its own motion, may:

1. Grant preliminary approval of the proposed project involving a local improvement, and pursue formation of the local improvement district by:

a. Directing the city manager to call for bids on the proposed project, and upon opening of the bids, file a report with the city recorder in accordance with Section 3.12.050, and

b. Directing the city recorder, upon receipt of the city manager's report, to schedule, and give notice of, in accordance with Section 3.12.060 of the public hearing to be held pursuant to Section 3.12.070; or

2. Modify the proposed project by:

a. Directing the city manager to modify the preliminary design and engineering of the proposed project and/or the local improvement portion thereof and submit a report thereon to the city recorder in accordance with Section 3.12.030, and

b. Directing the city recorder, after receiving the city manager's report on the modifications, to schedule council consideration of the matter improvement on the next available council agenda, and

c. If council grants preliminary approval of the modifications, it shall proceed as outlined in subsection (B)(1) of this section; or

3. Deny the requested project or local improvement. (Ord. 868 § 1.030, 1997)

**3.12.050****City manager's report on bids received for construction of a proposed project involving a local improvement—Recommendation on award of a contract.**

A. After receiving council direction to proceed with a proposed project approved under Section 3.12.040(B)(1), the city manager will cause the bid documents to be prepared and call for bids on the proposed project involving a local improvement. After reviewing all bids received on the construction of the proposed project, the city manager shall file a report with the city recorder providing the following information:

1. The name, address and bid amount of each bidder and the engineer's estimate on the construction cost of the proposed project;

2. A recommendation on which bidder, if any, should be awarded the bid for construction of the proposed project, and if so awarded, based on such bid:

a. The estimated total project cost and the recommended maximum total assessable cost,

3.12.060

b. The method of calculating the assessments for the proposed improvement in accordance with Sections 3.12.080 and 3.12.090,

c. What amount, if any, of the estimated total project cost could be borne by the city and others, and

d. The names and addresses of the owners of each benefitted property and the estimated maximum total assessment for each property.

B. The city recorder shall forward the city manager's report prepared in accordance with subsection A of this section, along with the report required from the city recorder pursuant to Section 3.12.060(C), to the council prior to the public hearing held in accordance with Section 3.12.070. (Ord. 868 § 1.040, 1997)

**3.12.060**

**Notice of public hearing on the possible formation of a local improvement district—Estimated assessments to be levied.**

A. Upon receipt of the city manager's report and recommendation presented in accordance with Section 3.12.050, the city recorder shall set a date and time for the public hearing to be held pursuant to Section 3.12.070. At least ten days prior to the date scheduled for the hearing, the city recorder shall post notice of the hearing at City Hall, cause to have such notice published in a newspaper of general circulation in the city, and by certified mail, send such notice to all owners of property which could be benefitted by, and assessed for, the proposed local improvement. Such notice shall state:

1. A general description of the proposed project, the improvement portion thereof and the local improvement district; the date construction could begin and the estimated date the project and local improvement would be completed;

2. Based on the bid being recommended for award: the estimated total project cost; the estimated maximum total assessable cost therefrom which would be levied against each benefitted property without further notice (provided, the actual total assessable cost of the improvement, as determined upon completion of the local improvement portion of the project, does not exceed the estimated maximum total assessable cost based upon the contract awarded by ten percent or more); the method of calculating the assessments; and what amount, if any, of the estimated total project cost may be borne by the city and others; and

3. A list of each parcel of benefitted property identified by tax account and tax lot numbers; and the names and addresses of the owners of each such parcel according to the Douglas County assessor's records;

4. That as required by the state tax limits, the assessments for the proposed improvement will be characterized by council as local improvements assessments, and that within sixty (60) days of this notice, any ten interested taxpayers who disagree with this characterization may file a petition with the Oregon Tax Court;

5. The date, time and location of the public hearing;

6. That assessments will not be levied until after the improvement has been completed and the actual total assessable cost has been ascertained; and should the actual total assessable cost

exceed the estimated total assessable cost by ten percent or more, and council determines an increase in the estimated assessments is needed:

a. Council will hold an additional public hearing during which such possible increase in assessments will be considered prior to adoption of an ordinance levying the increased assessments,

b. At least ten days prior to the public hearing, the city recorder will notify each affected property owner, by certified mail, of the date, time and location of the hearing and that as benefitted property owners, they shall be given an opportunity to be heard during the public hearing, and

c. If, after the hearing, council elects to increase the assessments, the increased assessments will be calculated in a just and equitable amount and will not exceed the actual assessable cost of the improvement;

7. That when the assessments are levied by council, the assessments will become a lien against the benefitted properties if not paid in full within ten days after the effective date of the assessment ordinance; and that if the assessments are not so paid, interest on the unpaid balance will accrue as prescribed in the assessment ordinance until fully paid, unless payment is deferred under this chapter;

8. That owners of property to be assessed for the proposed local improvement are requested to attend the hearing and comment on the formation of the proposed local improvement district and the estimated maximum assessments; and

9. The manner in which such property owners may submit comments for council consideration before council adopts a resolution forming the proposed local improvement district and stating the estimated total assessable costs to be levied upon completion of the improvement.

B. The city recorder shall keep a record of the notice posted, published and mailed to the benefitted property owners and of receipts indicating delivery of such notice to the property owners.

C. The city recorder shall certify in a report to the council that notice of the hearing to be held pursuant to Section 3.12.070 was given as required. Such report shall include a copy of the notice. (Ord. 868 § 1.050, 1997)

### **3.12.070**

#### **Public hearing regarding adoption of a resolution forming a local improvement district—Estimated maximum assessable costs to be levied as assessments.**

A. Prior to adopting a resolution forming a local improvement district, council shall hold a public hearing during which council shall consider the city recorder's and the city manager's reports, testimony and remonstrances given by all affected property owners and any other information council feels is relevant to determining if the proposed improvement is in the best interest of the city.

B. After considering all information and testimony presented during the hearing in accordance with subsection A of this section, the council may, subject to the limitations of the City Charter, by its own motion:

3.12.080

1. Adopt a resolution:

- a. Stating the general nature of the improvement,
- b. Forming the local improvement district and identifying its boundaries,
- c. Identifying the benefitted property,

d. Stating the estimated maximum total assessable cost, based on the contract being recommended for award, apportioning that cost to each parcel of benefitted property and declaring that the estimated assessment for each benefitted property, or a lesser amount, shall be levied following completion of the proposed improvement without further notice to the benefitted property owners, unless, following completion of the improvement, the actual total assessable cost of the improvement exceeds the estimated total assessable cost stated in the resolution by ten percent or more, in which event, the council will hold an additional public hearing in accordance with Section 3.12.110 before adopting an ordinance levying assessments in an amount greater than the estimated assessments stated in the resolution forming the local improvement district,

e. Stating that the assessments to be levied against benefitted property shall not exceed actual cost of the improvement; are for bestowal of a special benefit to specific property or to rectify a problem caused by specific property; shall be imposed in a single assessment upon completion of the improvement and may be paid with interest over at least a ten year period at the property owner's election; are characterized for purposes of the property tax limitation in Article XI of the Oregon Constitution as assessments for a local improvement, not subject to the constitutional limitations, and

- f. Awarding a contract for the construction of the project involving a local improvement;

2. Reject all bids received on the project as originally proposed; modify the project or local improvement portion thereof; identify the contemplated boundaries of the modified local improvement district, if necessary; and direct the city manager and city recorder to proceed with the modified project under Sections 3.12.030 through 3.12.070;

3. Request additional information regarding the proposed project or local improvement portion thereof; delay further consideration on, and award of a contract for the construction of the proposed project and continue the public hearing on the proposed improvement portion of the project until such time as the additional information is provided; or

4. Reject all bids received on the proposed project, deny the requested project or improvement and abandon the proposed project. (Ord. 868 § 1.060, 1997)

**3.12.080**

**Computation of estimated total assessable cost for local improvements.**

The estimated total assessable cost of an improvement shall be computed by the city manager and shall include, but not be limited to, the estimated cost of constructing the improvement, engineering, interest on warrants, legal costs, including advertising and providing notice of assessments and an equitable portion of the city's indirect overhead costs. (Ord. 868 § 1.070, 1997)

**3.12.090****Apportionment and determination of the estimated total assessable cost for local improvements.**

A. Whatever share, if any, of the estimated total assessable cost of a local improvement is to be borne by the city shall be deducted from the estimated total assessable cost before the estimated maximum assessments are apportioned and determined under this section. The city shall pay the cost of the following, providing funds are available and the improvement has appropriate priority:

1. Extra capacity constructed in the improvement to serve areas beyond the improvement district;
2. Storm sewers constructed as part of a street improvement within existing developed areas; and
3. Other apportioned costs as recommended by the city manager and the finance director.

B. The assessment for each benefitted property shall be calculated as follows:

1. Special costs or features of the improvement that benefit a particular property in a manner peculiar to the property shall, together with a share of the total assessable cost of the improvement, be assessed separately against that property.

2. Unless council directs otherwise, when it gives preliminary consideration to the local improvement portion of a proposed project under Section 3.12.040, the remainder of the total assessable cost shall be assessed against the property as follows:

a. Street Construction Assessments.

i. Property in residentially zoned local improvement districts may be assessed for a maximum of forty (40) feet of width of an improvement and for paving of a thickness determined by the city manager, on the basis of standards of the Oregon State Highway Division or the Asphalt Institute, to be adequate for residential traffic.

ii. Property in commercial or industrial zoned local improvement districts may be assessed for a maximum of forty-eight (48) feet width of an improvement and for paving of a thickness determined in the manner indicated in subsection (B)(2)(a)(i) of this section to be adequate for anticipated traffic.

iii. Property located within a local improvement district and zoned other than residential, commercial or industrial, may be assessed according to the predominant existing use of surrounding property.

iv. The cost for the assessable width for a street improvement shall be apportioned to each property on the basis of its front footage abutting the improvement, except that:

(A) If a residentially zoned property has a total front footage of less than sixty (60) feet on all abutting streets for which a street improvement assessment has been or is likely to be made, then that property shall be assessed as if its front footage on those streets were sixty (60) feet;

(B) A property in a single-family zoned local improvement district shall not be assessed for more than the abutting footage on two sides of the property.

v. Assessments for street construction shall include the cost of catch basins and piping from catch basins to storm sewers for properties specially benefitted by the basins.

b. Alley Improvement Assessments.

3.12.090

i. The cost for an alley improvement shall be apportioned to each property on the basis of its abutting footage, except that the portion of the alley improvement in the street right-of-way shall be borne by the city.

ii. Assessments for alley construction shall include the cost of catch basins and piping from catch basins to storm sewer mains for properties specially benefitted by the basins.

c. Sidewalk Assessments. Each property abutting a sidewalk shall be liable for a proportionate share of the cost of the sidewalk, based on the front footage of the property abutting the sidewalk. The front footage shall be ascertained in the same manner as for street improvement assessments. Where, however, council finds that the topography makes it unfeasible to construct a sidewalk on both sides of the street, the cost of the sidewalk on one side of the street may be assessed to both the properties abutting the sidewalk and the properties on the opposite side of the street from the sidewalk, on the basis of the front footage abutting or directly across the street from the sidewalk, or the costs may also be apportioned on the basis of the area of sidewalk or driveway apron, or both, abutting each property, whichever basis is determined by council to be more equitable.

d. Storm Sewer Assessments. The cost of storm sewer construction shall be borne in the following manner:

i. In a new or undeveloped subdivision or a new development, properties specially benefitted by the storm sewer shall bear the cost of the storm sewer up to and including the first thirty-six (36) inches of pipe diameter. For pipes larger than thirty-six (36) inches, the city may pay the difference in cost of the larger diameter pipe and the difference in cost of any trench width wider than forty-eight (48) inches, measured at the pipe zone, as required for such pipe.

ii. The cost to be assessed shall be apportioned to each property on the basis of its land area in the local improvement district.

e. Sanitary Sewer Assessments. The cost of sanitary sewer construction shall be borne in the following manner:

i. The properties specially benefitted by a sanitary sewer shall bear the cost of the sewer up to and including twelve (12) inches of pipe diameter. For pipes larger than twelve (12) inches, the city may pay the difference in cost of the larger diameter pipe and the difference in cost of any trench width wider than twenty-four (24) inches, measured at the pipe zone, as required for such pipe.

ii. The costs to be assessed shall be apportioned to each property on the basis of a cost per square foot of service area, determined by dividing the total assessable cost by the total service area. The service area for each parcel shall be that portion of the property lying within one hundred sixty (160) feet of the street right-of-way line or within one hundred sixty (160) feet of the side or rear lot lines when the sewer is located nearer such a line than the street line.

f. Water System Assessments. The cost of water system construction shall be borne in the following manner:

i. In a new or undeveloped subdivision or a new development, the property benefitted by the water system construction shall bear the cost of the water system and all appurtenances up to and including the first twelve (12) inches of pipe diameter. For pipes larger than twelve (12) inches the city may pay the difference in cost of the larger diameter pipe.

ii. The cost to be assessed shall be apportioned to each property on the basis of front footage abutting the improvement.

g. Off-Street Parking Facilities. The cost of off-street parking facilities construction shall be borne as follows:

One unit of benefit shall be considered to be one square foot of floor space located on the main or ground floor of a structure and each other square foot of floor space on other levels of the structure shall be counted as one-half of a unit. To the number of units on each property the following proximity factors or charges shall be applied:

i. Any distance of up to two hundred (200) feet from the nearest proposed parking facility: a factor of 1.25.

ii. Any distance two hundred one (201) feet to three hundred ninety-nine (399) feet from the nearest proposed parking facility: factor of 1.00.

iii. Any distance four hundred (400) feet and over from the nearest proposed parking facility: a factor of 0.75.

iv. Distances shall be measured from the closest part of the property to the closest part of the nearest proposed parking facility.

After the determination of gross number of square-foot unit benefits and the application of the appropriate proximity factor thereto, there shall be deducted therefrom the number of square feet on the property which is then used for parking spaces. The result will constitute the number of benefit units upon which the assessment shall be based.

h. Other Local Improvements. The cost of local improvements not identified in subsections (B)(2)(a) through (g) of this section shall be borne by the benefitted property as determined by council when granting preliminary approval of the proposed local improvement.

C. When properties to be assessed are in a planned unit development or a condominium development in which the common elements are jointly owned by those owning individual units within the planned unit development or condominium, the entire planned unit development or condominium shall be treated as a single property and its assessment shall be determined as provided in subsection B of this section. After determining the assessment for the entire planned unit development or condominium, the assessment shall then be apportioned and assessed against each individual unit of ownership within the planned unit development or condominium and that unit's interest in the common elements according to the recorded declaration if it contains express language directing the apportionment of assessments for local improvements. Absent such express language, or absent a determination by council that only specific individual units within the planned unit development or condominium specially benefit from the improvement and should therefore bear the assessments, the assessments shall be apportioned and assessed among the individual units according to the individual unit's proportionate interest in the common elements.

D. Without repeating the notice required by Section 3.12.060 prior to enactment of the ordinance levying the assessment required by Section 3.12.120, the proposed assessments for individual properties calculated under subsections B and C of this section may be adjusted by a written agreement between the affected property owners and the city; provided, there is no

3.12.100

increase in the city's share of improvement costs or in assessments to other properties within the improvement district whose owners were not a party to the agreement. (Ord. 868 § 1.080, 1997)

**3.12.100**

**City manager's report regarding completion of a local improvement—Determination of the actual total assessable cost.**

A. Upon completion of a local improvement portion of a project authorized by this chapter, the city manager shall file a report with the city recorder which shall include the following information:

1. The date the improvement portion of the project was determined by the public works director to be complete;
2. The actual total assessable cost and how such cost compares with the estimated total assessable cost stated in the resolution;
3. The following information regarding how the actual total assessable cost should be paid:
  - a. If the actual total assessable cost of the improvement is equal to, or less than, the estimated total assessable cost as stated in the resolution, a breakdown showing:
    - i. The actual total assessable cost to be levied against each benefitted property,
    - ii. The amount, if any, to be paid with city funds or with funds available to the city and the identity of such funds, and
    - iii. The amount, if any, to be paid by others,
  - b. If the actual total assessable cost of the improvement exceeds the estimated maximum total assessable cost stated in the resolution by less than ten percent:
    - i. The breakdown required in subsection (A)(3)(a) of this section,
    - ii. The funding source from which the city shall pay the difference between the actual and the estimated maximum total assessable cost stated in the resolution,
  - c. If the actual total assessable cost of the improvement exceeds the estimated maximum total assessable cost stated in the resolution by ten percent or more:
    - i. A recommendation on whether the city should pay the difference between the actual total assessable cost and the estimated maximum total assessable cost or increase the assessments against benefitted properties for the difference between the estimated and actual assessable cost of the improvement, and
    - ii. If it is recommended the city pay the excess, in addition to the breakdown required in subsection (A)(3)(a) of this section, the funding source from which the excess amount could be paid, or
    - iii. If it is recommended the assessments against the benefitted properties be increased to compensate for the difference between the estimated and actual total assessable cost of the improvement, the amount by which the estimated assessments should be increased.

B. Upon receipt of the city manager's report submitted in accordance with subsection A of this section, the city recorder shall do the following:

1. If the city manager's report indicates no need to increase the estimated assessments against the benefitted properties, the city recorder shall schedule adoption of an ordinance levying

assessments for the completed improvement portion of the project on the next available council agenda; or

2. If the city manager recommends an increase in the assessments to be levied against benefitted properties, the city recorder shall schedule council consideration of the city manager's recommendation on the next available council agenda and forward the city manager's report to council, advising council of the requirement to hold a public hearing in accordance with Section 3.12.110 prior to levying assessments in an amount greater than the estimated maximum total assessable cost stated in the resolution.

C. Upon receipt of a report from the city recorder indicating the city manager has recommended an increase in the estimated maximum total assessments stated in the resolution, the council shall decide whether or not it would be in the best interest of the city to increase the estimated assessments. The council shall determine:

1. That the city should pay the difference between the estimated and actual total assessable cost of the completed improvement, identify from which funds the difference should be paid and adopt an ordinance levying assessments in the amount stated in the resolution; or

2. That an increase in the assessments is necessary, set a date for the public hearing required by Section 3.12.110 and direct the city recorder to send notice of such hearing and proposed increase in assessments by certified mail at least ten days prior to the date of the hearing, to each owner of property benefitted by the local improvement. (Ord. 868 § 2.010, 1997)

### **3.12.110**

#### **Public hearing on proposed increase in estimated assessments for a completed local improvement.**

As required by Section 3.12.060(A)(6), and as scheduled in accordance with Section 3.12.100(C)(2), before adopting an ordinance levying increased assessments against benefitted properties for a completed local improvement, council shall hold a public hearing regarding the intent to levy assessments in an amount greater than the estimated total maximum assessable cost as stated in the resolution forming the local improvement district, but not greater than the actual assessable cost of the improvement. At the hearing, the council shall allow all owners of benefitted properties to testify for or against the proposed increase in assessments. After the hearing, council shall, by its own motion, set the amount of assessment to be levied against each benefitted property and direct the city recorder to prepare an ordinance levying such assessments and place such assessment ordinance on the next available council agenda. (Ord. 868 § 2.020, 1997)

3.12.120

**3.12.120**

**Council adoption of an ordinance levying assessments for a completed local improvement.**

At a meeting scheduled by the city recorder in accordance with Section 3.12.100(B)(1), after considering the city manager's report and recommendation regarding the completed local improvement portion of a project, the council, by its own motion, may:

A. If the actual total assessable cost of the improvement is equal to, less than, or less than ten percent more than, the estimated maximum total assessable cost stated in the resolution, adopt an ordinance levying assessments against each benefitted property in an amount less than or equal to, but not more than, the estimated total assessable cost stated in the resolution; or

B. If the actual total assessable cost of the improvement is ten percent or more above the estimated maximum total assessable cost stated in the resolution:

1. Adopt an ordinance levying assessments against each benefitted property in an amount equal to the estimated assessments stated in the resolution, or

2. Following the public hearing required in Section 3.12.110, adopt an ordinance levying assessments against each benefitted property in a proportionate amount which is greater than the estimated assessment stated in the resolution, but not greater than, the actual total assessable cost of the completed improvement. (Ord. 868 § 2.030, 1997)

**3.12.130**

**Notice of assessments levied by ordinance.**

A. Following adoption of an ordinance levying local improvement district assessments against benefitted property, the city recorder, by certified mail, shall give notice of the assessments to the owners of the benefitted properties. The notice shall state that each assessment may be paid in full, without interest, within ten days of the effective date of the assessment ordinance, and that if the assessment is not so paid, interest on the unpaid balance of the assessment will accrue as prescribed in the assessment ordinance until the assessment is paid in full, unless payment of the assessment is deferred as provided by this chapter. The notice shall also state that the assessment may be paid in installments according to the terms set forth in the assessment ordinance, and shall include an application for so paying the assessment.

B. Unless otherwise specified by this chapter or by the assessment ordinance, reference in this chapter to making payments in installments, including but not limited to, installment payments under the Bancroft Bonding Act, shall mean paying the amortized obligation in up to twenty (20) equal semiannual payments, with interest not to exceed twelve (12) percent per annum on the unpaid balance; provided, however, that no such semiannual payment shall be for less than twenty-five dollars (\$25.00). (Ord. 868 § 2.040, 1997)

**3.12.140****Deferral of assessment payment—Eligibility criteria.**

A. Collection of the portion of the street construction assessment representing the costs in excess of that for a thirty-four (34) foot street may be deferred if the real property is located in a residential zone and is undeveloped property.

B. Collection of an assessment for construction of a new street opened through council action may be deferred when the abutting real property does not have driveway access to the street and is not developed for a purpose which makes use of the street. Upon receiving a permit to construct a driveway that takes access onto a street for which the assessment has been deferred, the property owner shall pay the deferred assessment or agree to pay the deferred assessment in installments in the same manner provided in Section 3.12.150.

C. Collection of a sewer improvement assessment may be deferred when a sanitary sewer or a storm sewer line is installed across or adjacent to undeveloped real property which does not have access to a sanitary or storm sewer system, and which is located more than one hundred sixty (160) feet away from a dedicated road or street.

D. Collection of an assessment for construction of a sanitary sewer service line may be deferred if:

1. The service connection will not be used until a subdivision occurs;
2. Installation with a paving project will eliminate a future street cut; or
3. Property owner approval was not given but it is in the city's best interest to install the service line. (Ord. 868 § 3.010, 1997)

**3.12.150****Agreement to defer, extend or modify assessment payments.**

For any person requesting such information, the city recorder shall provide copies of those portions of this chapter relating to eligibility for deferral, modification or extension of assessment payments. An eligible real property owner who requests such a deferral, extension or modification shall submit evidence of eligibility in written form to the city recorder. After review of the evidence submitted, the city recorder shall notify the applicant whether the request has been granted. If it has, the applicant shall enter into a contract to pay the assessment in accordance with the terms of the deferral, extension or modification. The contract shall be on a form approved by the city attorney and may be recorded in the official records of Douglas County, Oregon. (Ord. 868 § 3.020, 1997)

**3.12.160****Interest on assessment payments deferred, modified or extended.**

An assessment deferred under Section 3.12.140 shall accrue simple interest of three percent per annum from the date it is levied until the deferral ends. The contract required by Section 3.12.150 shall specify whether the interest is to be paid semiannually or monthly during the deferral or in

### 3.12.170

one lump sum at the end of the deferral. When the deferral ends, payment of the assessment shall be made as provided in Section 3.12.180. (Ord. 868 § 3.030, 1997)

### 3.12.170

#### **Termination of deferral, extension or modification of assessment payments.**

A deferral, extension or modification of assessment payments shall end if:

A. The owner of the property for whom the deferral, extension or modification is granted defaults in performing the contract pertaining thereto under Section 3.12.150, or

B. The owner transfers, or the property passes, to any other party except a surviving spouse, either through fee title or by way of a leasehold interest for a period of more than twenty-five (25) years the property to which the deferral, extension or modification pertains;

C. The property for which a deferral was granted under Section 3.12.140(A) or (B) has been conveyed to a use other than the use existing at the time the deferral was granted;

D. The property for which a deferral was granted under Section 3.12.140(C) has access to the street through a driveway or is used for a purpose other than a single-family residence or is partitioned to create new lots fronting on the street for which the assessment was levied; or

E. The property, for which a deferral has been granted under Section 3.12.140(D), is subject to one of the following changes:

1. A land division or re-division either by a subdivision or partition is filed by the owner,

2. A sanitary sewer lateral system becomes usable by the property,

3. A dedicated roadway is extended to provide access to the property located within one hundred sixty (160) feet of the sewer, or

4. An application is made for a permit to connect existing or proposed improvements on a portion of the property to a public sanitary sewer system;

F. The owner of the property for which a deferral was granted under Section 3.12.140(D)(2) and (3) makes application for a sanitary sewer connection permit. (Ord. 868 § 3.040, 1997)

### 3.12.180

#### **Deferral, extension or modification of assessment payments—Liens.**

A. Any assessment for which payments have been deferred, extended or modified under Section 3.12.140 shall be a lien on the property to which the assessment pertains. Except as provided in subsection B of this section, when such an assessment becomes due under Section 3.12.170, the entire unpaid principal plus interest shall be due and payable and it may be enforced and collected as though it has not been deferred, extended or modified and as though no timely application was made to pay the assessment in installments.

B. When a deferral, extension or modification of assessment payments ends for the reasons in Section 3.12.170(E)(2) through (4) and (F), the real property owner may pay the assessment and interest thereon as provided in Section 3.12.130 from the date the deferral, extension or modification ended. (Ord. 868 § 3.050, 1997)

**3.12.190****Lien records and foreclosure proceedings.**

A. After passage of an assessment ordinance provided for in Section 3.12.120, the city recorder shall enter in the docket of city liens a statement of the amounts assessed by the ordinance on each benefitted property together with a description of the local improvement, the names of the owners of the property assessed and the date of adoption of the assessment ordinance. Upon that entry each amount so entered shall become a lien and charge upon the respective property which has been assessed for such improvement.

B. If an assessment remains unpaid or a valid application for installment payments has not been filed with the city, the city manager may proceed to foreclose or enforce collection of the full amount of unpaid principal and interest plus attorney fees and costs of foreclosure or collection on delinquent municipal liens in the manner provided by the general law of the state or by this chapter. If any installment payment and interest thereon remains unpaid twenty (20) days after the same becomes due and payable, then the whole amount of the unpaid installments shall at once become due and payable and shall be collected in the manner and with the same penalty provided by the provisions of the laws of the state applicable thereto; provided, however, that a penalty of one percent per month on unpaid installments shall be charged in case of delinquency of any installment, and such penalty shall not exceed an amount equal to ten percent of the total unpaid principal.

C. In any proceeding to foreclose a city lien, the city may, at the direction of the city manager, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids, except those made by persons who would be entitled under the laws of the state to redeem the property. (Ord. 868 § 4.010, 1997)

**3.12.200****Errors in assessment calculations.**

A person who alleges an error in calculation of assessments may call the alleged error to the attention of the city recorder, who shall determine whether there has been an error in fact. If the city recorder finds that there has been an error in fact, the city recorder shall recommend to council an amendment to the assessment ordinance to correct such error; and upon enactment of the amendment, the city recorder shall make the necessary correction in the docket of city liens and send a corrected notice of assessment to the property owner by certified mail. (Ord. 868 § 4.020, 1997)

**3.12.210****Segregation of assessment.**

A. Whenever property assessed as a single parcel is subsequently subdivided or partitioned, a person owning any of the subdivision or partition and desiring to remove the assessment or to apportion the assessment among the lots in the subdivision or parcels in the partition shall apply

### 3.12.220

through the city recorder to the council for a segregation of the assessment and a determination of the amount due on that subdivision or partition.

B. If the council finds that the segregation can be made without prejudice to the security interest of the city, the city recorder shall, upon receiving payment applicable to the segregated portion of the property, discharge the lien of the assessment on that subdivision or partition.

C. Notwithstanding subsection B of this section, if the assessment is for off-street parking facilities, the city recorder shall conduct a hearing on the requested segregation. Each owner of a lot in a subdivision or parcel in a partition shall be entitled to be heard at that hearing and shall receive ten days advance notice of the hearing. On the basis of the evidence presented at the hearing, the city recorder shall recommend to the council that the segregation be approved or disapproved. Upon receipt of the recommendation, the council shall consider the matter, and if the council finds that the requested segregation can be made without prejudice to the security interest of the city, it shall direct the city recorder to apportion the assessment among the subdivision lots or partition parcels and change the assessment lien docket accordingly.

D. If council determines the city would be prejudiced by a segregation requested pursuant to subsection A of this section, payment of the entire assessment for the subdivision or partition shall be a condition precedent to discharge of the lien of the assessment.

E. Each application for segregation of assessment shall be accompanied by a fee set by council resolution. (Ord. 868 § 4.030, 1997)

### 3.12.220

#### **Abandonment of proceedings.**

The council may abandon or rescind proceedings for a project involving a local improvement approved under this chapter at any time before the final completion of the project or the local improvement portion thereof. (Ord. 868 § 4.040, 1997)

### 3.12.230

#### **Curative provisions.**

No local improvement assessment is invalid by reason of:

A. A failure of the city manager to provide all required information;

B. A failure to have all the information required in the improvement resolution, the assessment ordinance, the lien docket or notices required to be posted, published or mailed;

C. The failure to list the name of, or mail to, the owner of any property, any required notice; or

D. Any other error, delay, omission, irregularity or other act, jurisdictional or otherwise, in any proceeding or step specified in this chapter, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining. The council may remedy and correct all such matters by suitable action. (Ord. 868 § 4.050, 1997)

**3.12.240****Reassessments.**

Whenever any assessment for any local improvement which has been made by the city is set aside, annulled, declared or rendered void, or its enforcement is restrained by any court of competent jurisdiction, or when council doubts the validity of the assessment, council may reassess in the manner provided by state law; provided, however, that council or its designee may conduct any hearings as provided in this chapter. (Ord. 868 § 4.060, 1997)

**3.12.250****Interim financing authorization.**

Any time after the award of the contract for construction of a project involving a local improvement the city manager is authorized to issue and reissue improvement warrants as provided by state law to pay the cost of design and construction of the local improvement. Such improvement warrants shall be general obligations of the city and shall be redeemed upon the sale of bonds for the local improvement or upon appropriation of other funds for that purpose. (Ord. 868 § 4.070, 1997)

## Chapter 3.16

### MARIJUANA TAX

#### Sections:

- 3.16.010 Purpose.**
- 3.16.020 Definitions.**
- 3.16.030 Levy of tax.**
- 3.16.040 Deductions.**
- 3.16.050 Seller responsible for payment of tax.**
- 3.16.060 Penalties and interest.**
- 3.16.070 Failure to report and remit tax—Determination of tax by manager.**
- 3.16.080 Appeal.**
- 3.16.090 Refunds.**
- 3.16.100 Actions to collect.**
- 3.16.110 Violation infractions.**
- 3.16.120 Confidentiality.**
- 3.16.130 Audit of books, records or persons.**
- 3.16.140 Forms and regulations.**

#### **3.16.010**

##### **Purpose.**

For the purposes of this chapter, every person who sells marijuana, medical marijuana or marijuana-infused products in the City of Sutherlin is exercising a taxable privilege. The purpose of this chapter is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products. (Ord. 1039 § 1 (part), 2014)

#### **3.16.020**

##### **Definitions.**

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

A. “Gross taxable sales” means the total amount received in money, credits, property or other consideration from sales of marijuana, medical marijuana and marijuana-infused products that is subject to the tax imposed by this chapter.

B. “Manager” means the City Manager of the City of Sutherlin.

C. “Marijuana” means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the

plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

D. “Oregon Medical Marijuana Program” means the office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.

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

F. “Purchase or sale” means the retail acquisition or furnishing for consideration by any person of marijuana within the City and does not include the acquisition or furnishing of marijuana by a grower or processor to a seller.

### 3.16.030

G. “Registry identification cardholder” means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person’s debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

H. “Retail sale” means the transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a seller.

I. “Seller” means any person who is required to be licensed or has been licensed by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.

J. “Tax” means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.

K. “Taxpayer” means any person obligated to account to the City Manager for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter. (Ord. 1039 § 1 (part), 2014)

### 3.16.030

#### **Levy of tax.**

A. Every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter is subject to and must pay a tax for exercising that privilege. This tax is in addition to any other taxes or fees required by the City.

B. The amount of tax levied is as follows:

1. Zero percent of the gross sale amount paid to the seller of marijuana and marijuana-infused products by a person who is a registry identification cardholder.

2. Ten percent of the gross sale amount paid to the seller of marijuana and marijuana-infused products by persons who are purchasing marijuana and marijuana-infused products but are not doing so under the provisions of the Oregon Medical Marijuana Program. (Ord. 1039 § 1 (part), 2014)

### 3.16.040

#### **Deductions.**

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

A. Refunds of sales actually returned to any purchaser;

B. Any adjustments in sales that amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller. (Ord. 1039 § 1 (part), 2014)

**3.16.050****Seller responsible for payment of tax.**

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

B. At the time the return is filed, the seller must remit to the Manager the full amount of the tax collected. Payments received by the Manager for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.

C. The City will apply nondesignated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.

D. If the Manager, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Manager may order such a change. The Manager may establish shorter reporting periods for any seller if the Manager deems it necessary in order to ensure collection of the tax. The Manager also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all taxes collected pursuant to this chapter for the City's account until the seller makes payment to the Manager. A separate trust bank account is not required in order to comply with this provision.

E. Every seller required to remit the tax imposed by this chapter is entitled to retain five percent of all taxes due to the City to defray the costs of bookkeeping and remittance.

F. Every seller must keep and preserve in an accounting format established by the Manager records of all sales made by the seller and such other books or accounts as the Manager may require. Every seller must keep and preserve for a period of three years all such books, invoices and other records. The Manager has the right to inspect all such records at all reasonable times. (Ord. 1039 § 1 (part), 2014)

### **3.16.060**

#### **Penalties and interest.**

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

B. If any seller fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance first became delinquent, the seller must pay a second delinquency penalty of 10 percent of the amount of the tax in addition to the amount of the tax and the penalty first imposed.

C. If the Manager determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25 percent of the amount of the tax will be added thereto in addition to the penalties stated in subparagraphs A and B of this section.

D. In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter must pay interest at the rate of one percent per month or fraction thereof on the amount of

3.16.060

the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

### 3.16.070

E. Every penalty imposed, and any interest as accrues under the provisions of this section, becomes a part of the tax required to be paid.

F. All sums collected pursuant to the penalty provisions in paragraphs A through C of this section will be distributed to the City's General Fund.

G. Waiver of Penalties. Penalties for late tax payments may be waived or reduced if approved by City Council pursuant to City Council policy. Nothing in this subsection requires the City to reduce or waive penalties. (Ord. 1039 § 1 (part), 2014)

### 3.16.070

#### **Failure to report and remit tax—Determination of tax by Manager.**

A. If any seller fails to make any report of the tax required by this chapter within the time provided in this chapter, the Manager will proceed to obtain facts and information on which to base the estimate of tax due. As soon as the Manager procures such facts and information upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Manager will determine and assess against such seller the tax, interest and penalties provided for by this chapter.

B. If the Manager makes a determination as outlined in subsection A, the Manager must give notice to the seller of the amount assessed. The notice must be personally served on the seller or deposited in the United States mail, postage prepaid, addressed to the seller at the last known place of address.

C. The seller may appeal the determination as provided in section 3.16.080. If no appeal is timely filed, the Manager's determination is final and the amount assessed is immediately due and payable. (Ord. 1039 § 1 (part), 2014)

### 3.16.080

#### **Appeal.**

A. Any seller aggrieved by any decision of the Manager with respect to the amount of the tax owed along with interest and penalties, if any, may appeal the decision to the City Council.

B. The seller must file the written notice of appeal within 10 days of the City's serving or mailing of the determination of tax due.

C. The Council's decision is final subject only to judicial review pursuant to ORS 34.010 et seq.

D. The City will serve the findings upon the appellant in the same manner as that used to give notice for a tax determination in SMC 3.16.070. Any amount found to be due is immediately due and payable upon the service of notice. (Ord. 1039 § 1 (part), 2014)

**3.16.090**

**Refunds.**

A. The City may refund to the seller any tax, interest or penalty amount under any of the following circumstances:

1. The seller has overpaid the correct amount of tax, interest or penalty; or
2. The seller has paid more than once for the correct amount owed; or
3. The City has erroneously collected or received any tax, interest or penalties.

B. The City may not issue a refund under this subsection unless the seller provides to the Manager a written claim under penalty of perjury stating the specific grounds upon which the claim is founded and on forms furnished by the Manager. The seller must file the claim within one year from the date of the alleged incorrect payment to be eligible for a refund.

C. The Manager has 20 calendar days from the date of the claim's receipt to review the claim and make a written determination as to its validity. After making the determination, the Manager will notify the claimant in writing of the determination by mailing notice to the claimant at the address provided on the claim form.

D. If the Manager determines the claim is valid, the claimant may either claim a refund or take as credit against taxes collected and remitted the amount that was overpaid, paid more than once, or erroneously received or collected by the City. The claimant must notify the Manager of the claimant's choice no later than 15 days following the date the Manager mailed the determination and the claimant must do so in a manner prescribed by the Manager.

E. If the claimant does not notify the Manager of claimant's choice within the 15-day period and the claimant is still in business, the City will grant a credit against the tax liability for the next reporting period. If the claimant is no longer in business, the City will mail a refund check to claimant at the address provided in the claim form.

F. The City will not pay a refund unless the claimant establishes by written records the right to a refund and the Manager acknowledges the claim's validity. (Ord. 1039 § 1 (part), 2014)

### **3.16.100**

#### **Actions to collect.**

Any tax required to be paid by any seller under the provisions of this chapter is a debt owed by the seller to the City. Any tax collected by a seller that has not been paid to the City is a debt owed by the seller to the City. Any person owing money to the City under the provisions of this chapter is liable to an action brought in the name of the City of Sutherlin for the recovery of the amount owing. In lieu of filing an action for the recovery, the City, when taxes due are more than 30 days delinquent, may submit any outstanding tax to a collection agency. So long as the City has complied with the provisions set forth in ORS 697.105, if the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of \$50.00 or 50 percent of the outstanding tax, penalties and interest owing. (Ord. 1039 § 1, 2014)

### **3.16.110**

#### **Violation infractions.**

A. In addition to the penalties provided in section 3.16.060, a violation of this chapter is punishable by a fine not to exceed two hundred dollars (\$200.00) for a noncontinuing offense and a fine of not more than one thousand dollars (\$1,000.00) for a continuing offense. It is a violation of this chapter for any seller or other person to:

1. Fail or refuse to comply as required herein;
2. Fail or refuse to furnish any return required to be made;
3. Fail or refuse to permit inspection of records;
4. Fail or refuse to furnish a supplemental return or other data required by the Manager;
5. Render a false or fraudulent return or claim; or
6. Fail, refuse or neglect to remit the tax to the city by the due date.

B. The remedies provided by this section are not exclusive and do not prevent the City from exercising any other remedy available under the law.

C. The remedies provided by this section do not prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance. (Ord. 1039 § 1 (part), 2014)

3.16.120

**3.16.120**

**Confidentiality.**

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

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

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

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

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

E. The disclosure of records related to a business's failure to report and remit the tax when the report or tax is in arrears for over six months or when the tax exceeds \$5,000. The City Council expressly finds that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5). (Ord. 1039 § 1 (part), 2014)

**3.16.130**

**Audit of books, records or persons.**

The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due. All books, invoices, accounts and other records must be made available within the City limits and be open at any time during regular business hours for examination by the Manager or an authorized agent of the Manager. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Manager may immediately seek a subpoena from the Sutherlin Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination. (Ord. 1039 § 1 (part), 2014)

**3.16.140**

**Forms and regulations.**

The Manager is authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of the marijuana tax and to provide for:

A. A form of report on sales and purchases to be supplied to all vendors;

B. The records that sellers providing marijuana and marijuana-infused products must keep concerning the tax imposed by this chapter. (Ord. 1039 § 1 (part), 2014)