



## ORDINANCE 2012-007

### AN ORDINANCE AMENDING SHERWOOD MUNICIPAL CODE SECTION 15.16.100 REGARDING SYSTEM DEVELOPMENT CHARGE CREDITS

**WHEREAS**, Sherwood Municipal Code (SMC) Chapter 15.16 establishes a program for imposing system development charges (SDCs) on new development in the city for the purpose of equitably sharing the cost of certain capital improvements that benefit the entire city; and

**WHEREAS**, Sherwood Municipal Code Section 15.16.100 allows credits against the applicable system development charges (SDCs) for certain capital improvements or portions thereof; and

**WHEREAS**, Prior to the adoption of SMC Chapter 15.16 in 2007, the SMC required the City to provide notice to a developer that a project may qualify for SDC credits; and

**WHEREAS**, The City deleted the notice requirement when it adopted SMC 15.16 in 2007; and

**WHEREAS**, Upon further review and experience, the City Council now believes the notice requirement serves an important function by ensuring that the developer is aware of the credit provisions of SMC 15.16.100 and, therefore, wishes to restore the notice requirement to the provisions of SMC 15.16.100; and

**WHEREAS**, During the period the City was not required to provide notice, at least one development that may have qualified for SDC credits failed to apply for such credits within 90 days as required under SMC 15.16.100.H; and

**WHEREAS**, based on its consideration of the circumstances and equities City Council, in its sole discretion, believes the City can and should allow the developer to apply for SDC credits notwithstanding the timing requirements of SMC 15.16.100.H;

### **NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:**

**Section 1.** The Sherwood Municipal Code, Section 15.16.100, is amended as set forth in Exhibit A, attached hereto and incorporated by reference.

**Section 2.** Notwithstanding the 90-day limitation in SMC 15.16.100.H, a person who constructed or installed a qualified public improvement as defined 15.16.040 after July 1, 2007 but before January 1, 2012, and who did not receive written notice from the City that the improvement may qualify for SDC credit under SMC 15.16.100, may file a request for credit under SMC 15.16.100 with the City Manager. The City Manager shall review and either approve or deny the request, in whole or in part, in due course.

**Section 3.** This Ordinance 2012-004 shall become effective 30 days following its approval and adoption by the Sherwood City Council.

Duly passed by the Sherwood City Council this 1<sup>st</sup> day of May 2012.

  
Keith S. Mays, Mayor

Attest:

  
Sylvia Murphy, CMC, City Recorder

|             | <u>AYE</u>                          | <u>NAY</u>               |
|-------------|-------------------------------------|--------------------------|
| Clark       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Langer      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Butterfield | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Folsom      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Henderson   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Grant       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Mays        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

## EXHIBIT A

Sherwood Municipal Code Section 15.16.100 is amended to read (additions in **bold-face**):

### 15.16.100 - Credits.

- A. Credit may be applied to the system development charge to the extent that prior structures or uses existed, city services were established to those structures or uses, and said structures or uses had previously paid the applicable system development charge in effect at the time the structure or use was established. Except as provided in subsection F of this section, credits may not exceed the calculated system development charge. Refunds may not be made on account of such excess credit.
- B. Credit shall be given for the cost of a qualified public improvement, as defined by Section 15.16.040 of this chapter. Except for transportation improvements, if a qualified public improvement is located partially on and partially off the parcel or parcels that are the subject of the development approval, the credit shall be given only for the cost of the portion of the improvement not located on or wholly contiguous to the property. For transportation improvements, credit may also be given for the cost of the portion of the improvement located on or contiguous to the property. The terms of this subsection may be modified by the authorizing resolution described in Section 15.16.050 of this chapter to the extent that credit provisions are made less restrictive.
- C. The credit provided for by this section shall be only for the improvement charges for the type of improvement being constructed and, except as provided in subsection B of this section, shall not exceed the improvement charge even if the cost of the capital improvement exceeds the applicable improvement charge. Credits shall not be provided for reimbursement charges.
- D. The qualified public improvement must be designed and constructed to provide additional capacity to meet projected future capacity needs created by the development. Improvements that address capacity deficiencies existing at the time of development are not eligible for credit. In the case of improvements addressing both future and existing capacity needs, only that portion providing future capacity is eligible for credit. The terms of this subsection may be modified by the authorizing resolution described in Section 15.16.050 of this chapter to the extent that credit provisions may be made less restrictive.
- E. The city manager must determine that the timing, location, design, and scope of the proposed improvement is consistent with and furthers the objectives of the capital improvement programs of the city. The city manager may use priorities established by the city council in the city's capital improvement plan, the information contained in the city's comprehensive plan and various public facility master plans, the advice of the city's engineering, public works, and planning staff, and other relevant information and data in making this determination. The city manager must also determine that the improvement is required to fulfill a condition of development approval issued by the city and is included in the city's adopted public facility plans.
- F. Except as provided in this subsection, excess credit may not be transferred from one development to another.
  1. In the case of a multi-phased development, excess credit generated in one phase may be used to offset applicable system development charges in subsequent phases.

2. Upon written application to the city manager, excess credits may be reapportioned from one lot or parcel to another lot or parcel within the confines of the property originally eligible for the credit. The reapportionment shall be noted on the original credit form retained by the city.
  3. Upon written application to the city manager, excess credits may be transferred to another lot or parcel that is adjacent to and served by the transportation facility that generated the credits.
- G. Credit may not be transferred from one of the types of capital improvements defined by Section 15.16.040 of this chapter and authorized by a resolution, to another type of capital improvement authorized by a different resolution.
- H. All credit requests must be in writing and filed with the city manager no more than ninety (90) days after acceptance by the city of the qualified public improvement. Improvement acceptance shall be in accordance with the practices, procedures and standards of the city. **At the time the city accepts the qualified public improvement, the city shall provide written notice to the person making the improvement that the improvement may qualify for credit under this section. The notice shall state that a credit request must be filed within 90 days of the date of acceptance.**
- I. The amount of any credit shall be determined by the city manager and based upon the subject improvement's construction contract documents, or other appropriate information provided by the applicant, and verified and accepted by the city. Notwithstanding the contract amount, the credit may not exceed prevailing market rates for similar projects, as determined by the city.
- J. In the case of rights-of-way, easements, or other land associated with the improvement, value shall be established by sales documents, formal appraisal provided at the developers cost, by county assessors records, or some other method deemed acceptable to the city. Notwithstanding actual sales price, the credit may not exceed prevailing market rates for similar projects, as determined by the city.
- K. Credit shall be provided to the applicant on a form provided by the city. The original of the credit form shall be retained by the city. The credit shall state a dollar amount that may be applied against any applicable system development charge imposed against the subject property. Excess credit may not be redeemed for cash or a cash-equivalent.
- L. All requests for redemption of credits must be submitted not later than the issuance of a building permit or, if deferral was permitted pursuant to Section 15.16.090 of this chapter, issuance of an occupancy permit. The permittee is solely responsible for presentation to the city of any credit redemption request and no credit redemption request shall be accepted after issuance of a building permit or, if deferral was granted, issuance of an occupancy permit. In no event is a subject property entitled to redeem credits in excess of the system development charges imposed.
- M. Credits shall not be allowed more than seven years after the acceptance of the applicable improvement by the city. Extensions of this deadline may not be granted.
- N. Upon annexation of affected parcels of land, credits previously issued by Washington County will be honored by the city.