

## ORDINANCE NO. 02-576-O

## AN ORDINANCE AUTHORIZING THE ESTABLISHMENT AND PROVISIONS GOVERNING THE DEVELOPMENT AND USE FOR SYSTEM DEVELOPMENT CHARGES FOR WATER, SEWER, STORM WATER, PARKS AND STREETS.

The City of Columbia City ordains as follows:

Section 1. Purpose. The purpose of the system development charge is to impose a portion of the cost of capital improvements for water, sewer, streets, flood control, and parks upon those developments that create the need for or increase the demands on capital improvements.

Section 2. Scope. The system development charge imposed by this ordinance is separate from, and in addition to, any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development.

Section 3. Definitions. For purposes of this ordinance, the following mean:

"Capital Improvements." Facilities or assets used for:

- a. Water supply, treatment and distribution;
- b. Waste water collection, transmission, treatment and disposal;
- c. Drainage and flood control;
- d. Transportation; or
- e. Parks and recreation.

"Development." Building, making a physical change in the use or appearance of a structure or land, dividing land into two or more parcels (including partitions and subdivisions), or annexing property into the City when water or sewer services are provided to the property annexed.

"Improvement Fee." A fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to Section 4 of this ordinance.

"Land Area." The square footage of a parcel of land, not including that part of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

"Owner." The owner or owners of record, title, or the purchaser or purchasers under a recorded sales agreement, and other persons having an interest of record in the described real property.

"Parcel of Land." A lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.

"Qualified Public Improvements." A capital improvement that is:

- a. Required as a condition of residential development approval;
- b. Identified in the plan adopted pursuant to Section 8 of this

ordinance; and is either:

1. Not located on or contiguous to a parcel of land that is the subject of the development approval; or
2. Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fees is related.

"Reimbursement Fee." A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to Section 4 of this ordinance.

"System development charge." A reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. "System development charge" includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections with water and sewer facilities. "System development charge" does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision.

#### Section 4. System Development Charge Established.

- a. System development charges shall be established and may be revised by the council through the adoption of an ordinance or a resolution.
- b. Unless otherwise exempted by the provisions of this ordinance or other written agreement or local or state law, a system development charge is hereby imposed upon all parcels of land within the city, and upon all lands outside the boundary of the city that connect to or otherwise use any capital improvement described in Section 3 of this ordinance.

#### Section 5. Methodology

- a. The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, rate-making principals employed to finance publicly owned capital improvements, and other relevant factors identified by the council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.
- b. The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.

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

d. The City shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge.

Written notice shall be mailed to persons on the list at least forty-five (45) days prior to the first hearing to adopt or amend a system development charge, and the methodology supporting the adoption or amendment shall be available at least thirty (30) days prior to the first hearing to adopt or amend. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the city. The city may periodically delete names from the list, but at least thirty (30) days prior to removing a name from the list must notify the person whose name is to be deleted that a new written request for notification is required if the person wished to remain on the notification list.

#### Section 6. Authorized Expenditures.

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

b. 1. Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of future debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees must be related to demands created by development.

2. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to Section 8 of this ordinance.

c. Notwithstanding subsections a and b of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this ordinance, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures.

#### Section 7. Expenditure Restrictions.

a. System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

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

Section 8. Improvement Plan. The council shall adopt a plan that:

- a. Lists the capital improvements that may be funded with improvement fee revenues;
  - b. Lists the estimated cost and time of construction of each improvement;
- and
- c. Describes the process for modifying the plan.

Section 9. Collection of Charge.

- a. The system development charge is payable upon the issuance of:
  1. A building permit;
  2. A development permit;
  3. A development permit for development not requiring the issuance of a building permit;
  4. A permit to connect to the water system;
  5. A permit to connect to the sewer system;
  6. A permit to connect or discharge into the storm drainage system.

[Amended by Ordinance No. 03-587-O 7/17/03]
- b. If no building, development, or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased.
- c. If development is commenced or connection is made to the water, sewer, or storm drainage systems without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.
- d. The applicant for a building permit or development permit shall be required to state in writing the intended use of the building in sufficient detail to enable the city to determine the appropriate category of use. If the use of a building changes or if the stated use is incorrect, the occupant shall report the change of use to the city within 30 days and promptly pay any additional system development charge.
- e. The city shall not issue such permit or allow such connection until:
  1. The charge has been paid in full; or
  2. Unless an exemption is granted pursuant to Section 10 of this ordinance; or
  3. Until provision for payment of the system development charge by installment has been made pursuant to and in accordance with ORS 223.210 through ORS 223.215.

Section 10. Exemptions.

- a. Structures and uses established and existing on or before the effective date of this ordinance are exempt from a system development charge to the

extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date.

b. Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the system development charge.

c. An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the public improvement facility as calculated are exempt from all portions of the system development charge.

d. Standby fire protection lines are exempt from all portions of the system development charge.

#### Section 11. Credits.

a. A system development charge shall be imposed when a change of use of a parcel or structure occurs, but credit shall be given for the computed system development charge to the extent that prior structures existed and services were established on or after the effective date of this ordinance. The credit so computed shall not exceed the calculated system development charge. No refund shall be made on account of such credit.

b. A credit shall be given for the cost of a qualified public improvement associated with a development. If a qualified public improvement is located partially on and partially off the parcel that is 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. The credit provided for by this subsection shall be only for the improvement fee charged for the type of improvement being constructed and shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee. Credits for qualified public improvements shall expire if not used within 10 years from the date given, or within 10 years from the substantial completion date of the improvement, whichever comes first.

c. Credit against park systems development charges for dedication of qualified park land will be considered. For all other system development charges, a credit shall be given for the cost of a qualified public improvement associated with a development. If a qualified public improvement is located partially on and partially off the parcel that is 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. The credit provided for by this subsection shall apply only to the improvement fee charged for the type of improvement being constructed and shall not exceed the amount of the improvement fee, regardless of the cost of the capital improvement. Credits for qualified park land dedications shall expire if not used within 10 years from the date given, or within 10 years from the substantial completion date of the improvement, whichever comes first.

### Section 12. Installment Payments.

a. Systems development charges and charges less than five hundred dollars (\$500.00) may not be paid in installments. All systems development charges of five hundred dollars (\$500.00) or more may be paid in two semi-annual installments, to include interest on the unpaid balance, in accordance with ORS 223.208.

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

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

d. The city recorder shall determine the amount of the system development charge, the dates on which the payments are due, the name of the owner, and the description of the parcel.

e. The city recorder shall docket the lien in the lien docket and record the lien with the Columbia County Clerk. From that time the city shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the council. The lien shall be enforceable in the manner provided in ORS Chapter 223. All system development charges shall be due and payable upon a change of ownership from an owner who elects to pay system development charges by installment under this chapter to an owner who acquires a fee interest in the parcel subject to the system development charge.

### Section 13. Segregation and Use of Revenue.

a. All funds derived from a particular type of system development charge are to be segregated from other system development charges, and are to be segregated from all other funds of the city by accepted accounting practices. That portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in Section 6 of this ordinance.

b. The city administrator shall provide the city council with an annual accounting, based on the city's fiscal year, for system development charges showing the total amount of system development charge revenues collected for each type of facility and the projects funded from each account.

Section 14. Challenges of Expenditures. Any citizen or other interested person may challenge an expenditure of system development charge revenues. Any challenge must be submitted, in writing, within two (2) years following the subject expenditure and must include: (1) the name and address of the person challenging the expenditure; (2)

the amount of the expenditure, the project, payee, or purpose, and the approximate day on which it was made; and (3) the reason why the expenditure is being challenged.

The City will review the challenge and determine whether or not the expenditure was made in accordance with the provisions of the City's ordinances and other relevant laws. If the City finds that the expenditure was not appropriate, the system development charge fund must be reimbursed from other revenue sources within one year.

[Amended by Ordinance No. 03-587-O 7/17/03]

Section 15. Prohibited Connection. No person may connect to the water or sewer systems of the city unless the appropriate system development charge has been paid.

Section 16. Penalty. Violation of this ordinance is punishable by a fine not to exceed \$250.00. Each day that the violation is allowed to exist shall constitute a separate and distinct violation.

Section 17. Construction. The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of this ordinance.

Section 18. [Severability.]

Section 19. Effective Date. This ordinance shall take effect 30 days following its adoption by the City Council and approval by the Mayor.

Section 20. Refunds of System Development Charges. The applicant may apply for a refund of the System Development Charges they have paid if the building permit has expired and the building has not been substantially completed. Application for a refund must be made to the city within twelve (12) months following the expiration of the building permit. [Amended by Ordinance No. 03-587-O 7/17/03]

Section 21. Appeals. An applicant who is required to pay a system development charge has the right to request a hearing to review the denial of (1) an alternative rate calculation, or (2) a proposed credit for the contribution of a qualified public improvement. The request for a hearing must be made within thirty (30) days of the date of the date of first receipt of the denial. A hearing before the City Council will be scheduled upon receipt of an approval. [Amended by Ordinance No. 03-587-O 7/17/03]

Passed by the council and approved by the mayor February 22, 2002.