

CITY ORDINANCE NO. 1086
CITY OF PRINEVILLE

AN ORDINANCE ESTABLISHING SYSTEMS DEVELOPMENT CHARGES
(SDC's), PROCEDURES, AND POLICIES FOR SEWER, WATER AND
TRANSPORTATION WITHIN THE CITY OF PRINEVILLE

THE PEOPLE OF THE CITY OF PRINEVILLE, OREGON, DO ORDAIN AS
FOLLOWS:

SECTION 1.0. GENERAL PROVISIONS

- 1.1. TITLE. This Ordinance shall be known as the Systems Development Charge Ordinance of 2000 for the City of Prineville, Oregon.
- 1.2. AUTHORIZATION. Systems Development Charges (SDC's) are authorized by Oregon Revised Statutes (ORS) Chapters 223.297 to 223.314 and by Sections 4 and 39 of the Prineville City Charter.
- 1.3. PURPOSE. It is the purpose of this Ordinance to provide for the basic framework for the imposition of System Development Charges for the recovery of certain capital improvement costs deemed necessary for the City to provide sewer, water and transportation services.
- 1.4. DEFINITIONS. As used in this Ordinance, the following words and phrases, unless the context of this Ordinance requires or provides otherwise, shall have the meaning set forth herein:
 - 1.4.1. "Capital Improvement" means facilities or assets used for the following:
 - (a) Water supply, treatment, storage and distribution;
 - (b) Waste water collection, transmission, treatment, storage and disposal;
 - (c) Drainage and flood control; or
 - (d) Transportation.
 - 1.4.2. "Capital Improvement" does not include costs of the operation or routine maintenance of capital improvements.
 - 1.4.3. "Improvement fee" means a fee for costs associated with capital improvements to be constructed.
 - 1.4.4. "Reimbursement fee" means a fee for costs associated with capital improvements associated with capital improvements already constructed or under construction.
 - 1.4.5. "System Development Charge" or "SDC" means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement.

Section 1.0. General Provisions; 1.4. Definitions; Contd.

- 1.4.6. "System Development Charge" or "SDC" does not include any fees assessed or collected as part of a Local Improvement District (LID), Reimbursement District, or a charge in lieu of an LID assessment, or the cost of complying with requirements or conditions imposed upon a land use decision, expedited land division or limited land use decision as provided for in this Ordinance or the implementing Resolution No. 875.
- 1.4.7. Terminology: The word "City" shall mean the City of Prineville, Oregon. The words "City Council" and "Council" shall mean the City Council of Prineville. The words "City Planning Commission" and "Commission" shall mean the City Planning Commission for the City of Prineville as duly appointed by the City Council. The words "City Recorder," "City Manager," "City Planning Official or Director," "Fire Chief," "City Legal Counsel, City Counsel or City Attorney," and "City Public Works, Sewer, Water or Street Superintendent," shall mean such respective positions for the City of Prineville as applicable.

SECTION 2.0. CAPITAL IMPROVEMENT PLANS REQUIRED

- 2.1. As required by ORS Chapter 223.309, the City has prepared and adopted the following Public Facility Master Plans. Said Plans, as may be amended, are hereby adopted by reference as though set forth in full herein. Said Plans are available for public inspection at the office of the City Manager of the City of Prineville, 400 NE 3rd Street, Prineville, Oregon.
- (a) Transportation System Plan of 1999 as prepared for the City of Prineville by W&H Pacific Consulting Engineers, Inc.;
 - (b) Water Facility Plan of 2000 as prepared for the City of Prineville by ACE Consultants, Inc.; and
 - (c) Wastewater Facility Plan of 2000 as prepared for the City of Prineville by ACE Consultants, Inc.
- 2.2. Plans identified in Subsection 2.1 of this Section may be modified, revised, amended and/or updated by the City only on an annual basis except in the case of emergencies. The City shall conduct one or more public hearings on all Plan modifications, revisions, amendments and/or updates. At least one(1) such hearing shall be conducted by the City Council prior to adoption of such Plan modifications, revisions, amendments and/or updates.
- 2.3. Copies of all such proposed modifications, revisions, amendments and/or updates to such Plans shall be available for public inspection not less than ten(10) days prior to any public hearing thereon.

SECTION 3.0. DETERMINATION OF AMOUNT OF SDC's

- 3.1. Reimbursement fees shall be established by City Council Resolution setting forth a methodology that considers the cost of the existing facility or facilities, prior contributions by existing users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements and other relevant factors identified by the City. The methodology shall promote the objective of the future system users contributing to no more than an equitable share to the cost of existing facilities. The methodology for establishing such fees shall be available for public inspection.
- 3.2. Improvement fees shall be established by City Council Resolution setting forth a methodology that considers the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related. The methodology for establishing such fees shall be available for public inspection.

SECTION 4.0. CERTAIN SDC's AND METHODOLOGIES ARE PROHIBITED.

- 4.1. As used in this Section, "employer" means any person who contracts to pay remuneration for, and secures the right to direct and control the services of, any person.
- 4.2. The City may not establish or impose a SDC that requires an employer to pay a reimbursement fee or an improvement fee based on:
 - (a) The number of individuals hired by the employer after a specified date; or,
 - (b) A methodology that assumes that costs are necessarily incurred for capital improvements when an employer hires an additional employee.
- 4.3. A methodology set forth in a Resolution that establishes an improvement fee or a reimbursement fee shall not include or incorporate any method or system under which the payment of the fee is determined by the number of employees of an employer without regard to new construction, new development or new use of an existing structure by the employer.

SECTION 5.0. CREDITS AGAINST SDC's

- 5.1. The City Council Resolution that establishes an improvement fee shall also provide for a credit against said SDC fees for the construction of a qualified public improvement as provided for by ORS Chapters 223.297 to 223.314.

Section 5.1; Contd.

A "qualified public improvement" means a capital improvement that is required as a condition of development approval in a Public Facility Plan adopted by the City as referenced by Section 2.0. of his Ordinance and either:

- (a) Not located on or contiguous to property that is the subject of development approval; or
- (b) Located in whole or in part on or contiguous property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

- 5.2. (a) The credit provided for in Subsection 5.1 of this Section shall be only for the improvement fee charged for the type of improvement being constructed, and credit for qualified public improvements under Subsection 5.1 of this Section may be granted only for the cost of that portion of such improvement that exceeds the City's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under Subsection 5.2(b) of this Section.
- (b) When the construction of a qualified public improvement as defined in Subsection 5.1 of this Section gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project, subject to City approval.
- (c) Credits shall be used in the time specified by the City but not later than 5-years from the date the credit is given.
- 5.3. The Resolution that establishes an improvement fee shall also provide for a credit against said SDC fees for qualifying local improvement districts. A "qualified local improvement district" means a local improvement district ("LID") that has been approved by the City prior to 2000 and:
- (a) Applies for and receives building permits to complete planned LID and/or development construction within five(5) years of the date of original LID and/or development approval unless otherwise approved by the City; and
 - (b) Pays all required LID fees on schedule in compliance with the original LID conditions.
 - (c) The credit provided for in this Subsection shall only be for the LID fee charged, but shall not exceed the applicable SDC fee that would otherwise be levied against properties in the LID project, in part of in

Section 5.3(c): Contd.

- whole, accruing in subsequent phases or the original LID project, subject to City approval.
- (d) Credits shall be used in the time specified by the City but not later than 5 years from the date the credit is given unless otherwise approved by the City.

SECTION 6.0. EXEMPTIONS TO SDC CHARGES.

The SDC charges imposed by this Ordinance or the implementing Resolution shall not apply to the following:

- (a) Developments for which applications and fees for building permits, sewer and water connections, and/or manufactured home park use permits have been filed and paid prior to the effective dates of this Ordinance and the implementing Resolution, providing the information accompanying such applications was sufficiently complete to meet the requirements of issuance of permits and connections for said developments.
- (b) Reconstruction or repair of a building or structure, or portion thereof, which was damaged or destroyed by earthquake, fire, flood, or other natural causes over which the owner had no control, but only if:
- (1) Such reconstruction or repair is done pursuant to a building permit issued within one year after such damage or destruction unless such has been delayed by applicable regulations beyond the control of the owner; and
 - (2) There is no change in water meter or development size.
- (c) Replacement structures for any forced acquisition wherein a building or Structure is acquired for public purposes through eminent domain provided that:
- (1) The owner obtains a building permit for the replacement structure within two(2) years of the acquisition, and
 - (2) There is no change in water meter or development size.
- (d) Any public use or development which is or by agreement will be undertaken by the City of Prineville. Such an exemption for any other public entity shall be subject to City approval on a case-by-case basis.
- (e) Any housing unit which is located in a housing project of one or more housing units, if the project receives federal housing funds or tax credits and is affordable to families at or below the City's 80% median family income level as defined by the US Department of Housing and Urban Development, provided such unit or units were duly approved by the City prior to the effective date of this Ordinance and the implementing Resolution and construction commences within 3 years of approval.

Section 6.0. Exemptions; Contd.

- (f) Replacement units within a duly approved manufactured home park on spaces which have previously been occupied and for which sewer and water connections have previously been installed and in use prior to the effective date of this Ordinance and the implementing Resolution.
- (g) Original placement units within a duly approved manufactured home Park for which sewer and water connection fees have been paid in full to the City prior to the effective dates of this Ordinance and the implementing Resolution provided such units are placed within 3 years of the effective dates of this Ordinance and the implementing Resolution.
- (h) New units within duly approved and platted subdivisions or other developments provided that sewer and water connection fees have been paid in full to the City prior to the effective dates of this Ordinance and the implementing Resolution and that the construction of such units commences within 3 years of the effective dates of this Ordinance and the implementing Resolution.

SECTION 7.0. AUTHORIZED EXPENDITURE OF SDC's

- 7.1. Reimbursement fees shall be spent only on capital improvements associated with the systems for which the fees are assessed including expenditures relating to repayment of indebtedness.
- 7.2. Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for such improvements. An increase in system capacity may be established if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of such improvements funded by improvement fees must be related to current or projected development.
- 7.3. 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.
- 7.4. Any capital improvement being funded wholly or in part with SDC revenues shall be included in the Capital Improvement Plans adopted by the City as set forth in Section 2.0 of this Ordinance as may be modified, revised, amended or updated .

Section 7.0. Authorized Expenditures: Contd.

- 7.5. Notwithstanding Subsections 7.1 and 7.2 of this Section, SDC revenues may be expended on the direct costs of complying with the provisions of ORS Chapters 223.297 to 223.314, including the costs of developing SDC methodologies and providing an annual accounting of SDC expenditures.

SECTION 8.0. DEPOSIT AND ACCOUNTING OF SDC REVENUES

- 8.1. SDC revenues shall be deposited only in accounts designated for such moneys.
- 8.2. The City shall provide an annual accounting for SDC's showing the total amount of SDC revenues collected for each system and the projects that were funded thereby.
- 8.3. Copies of the annual accounting reports for SDC's shall be available for public inspection at the offices of the City Manager, City Hall, 400 NE 3rd Street, Prineville, Oregon.

SECTION 9.0. CONTESTING SDC's METHODOLOGIES OR EXPENDITURES

- 9.1. Any legal action intended to contest the adoption of System Development Charges and the methodologies used for calculation the SDC's shall be filed within sixty (60) days following City Council adoption of a Resolution adopting SDC's and the methodologies therefor and shall be by Writ of Review as provided in ORS Chapters 34.010 to 34.100 and not otherwise.
- 9.2. No legal action intended to contest the methodology used for calculating a SDC shall be filed after 60 days following adoption or modification of the SDC Resolution or methodologies therefor by the City Council.
- 9.3. The City shall, by City Council Resolution, adopt administrative review procedures by which any citizen or other interested person may challenge an expenditure of SDC revenues. Such procedures shall provide that such a challenge must be filed within two years of the expenditure of the SDC revenues. The decision of the City Council shall be reviewed only as provided in ORS Chapters 34.010 to 34.100 and not otherwise. Such administrative review procedures shall be adopted prior to the expenditure of any SDC revenues.

SECTION 10.0 ENACTMENT

This Ordinance shall be in full force and effect thirty (30) days from and after its approval by the City Council and the Mayor.

APPROVED BY THE CITY COUNCIL ON THE 28th DAY OF DECEMBER, 2000

APPROVED BY THE MAYOR ON THE 28th DAY OF DECEMBER, 2000


Ann Graf, Mayor

ATTEST: 
City Manager

12-28-00
Date