

ORDINANCE 1111  
CITY OF PRINEVILLE

AN ORDINANCE AMENDING ORDINANCE 1086, ESTABLISHING SYSTEM  
DEVELOPMENT CHARGES FOR SEWER, WATER AND TRANSPORTATION IN  
THE CITY OF PRINEVILLE

WHEREAS, the City of Prineville passed Ordinance 1086 establishing System  
Development Charges in the City of Prineville, and

WHEREAS, the City desires to amend Ordinance 1086 by replacing said Ordinance  
with Ordinance 1111,

NOW, THEREFORE, THE PEOPLE OF THE CITY OF PRINEVILLE, DO  
ORDAIN AS FOLLOWS:

CHAPTER 40: SYSTEMS DEVELOPMENT CHARGES  
Section

- 40.01 Title
- 40.02 Authorization
- 40.03 Purpose
- 40.04 Definitions
- 40.05 Capital improvement plans required
- 40.06 Determination of amount of SDC's
- 40.07 Procedures for SDC Credit or refund
- 40.08 Credits against SDC's and refunds
- 40.09 Payment Schedules
- 40.10 Assignment of claims
- 40.11 City's obligation to pay
- 40.12 Enactment

§ 40.01 TITLE.

This chapter shall be known as the Systems Development Charge chapter of 2004 for the city.

§ 40.02 AUTHORIZATION.

Systems Development Charges (SDC's) are authorized by O.R.S. 223.297 to 223.314 and by Sections 4 and 39 of the Prineville City Charter.

§ 40.03 PURPOSE.

It is the purpose of this chapter is to provide for the basic framework for the imposition of Systems Development Charges for the recovery of certain capital improvement costs deemed necessary for the city to provide sewer, water and transportation services.

§ 40.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAPITAL IMPROVEMENT.

- (1) Facilities or assets used for the following:
  - (a) Water supply, treatment, storage and distribution;
  - (b) Waste water collection, transmission, treatment, storage and disposal;
  - (c) Transportation.
- (2) Does not include costs of the operation or routine maintenance of capital improvements.

CITY. The City of Prineville, Oregon.

CITY COUNCIL and COUNCIL. The City Council of Prineville.

CITY PLANNING COMMISSION and COMMISSION. The City Planning Commission for the city as duly appointed by the City Council.

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. Such respective positions for the city as applicable.

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.

IMPROVEMENT FEE. A fee for costs associated with capital improvements to be constructed.

REIMBURSEMENT FEE. A fee for costs associated with capital improvements already constructed or under construction at the time the applicable fee is established, and for which the City determines that capacity exists.

SYSTEM DEVELOPMENT CHARGE or SDC. 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.

(Ord. 1086, passed 12-28-00)

#### § 40.05 CAPITAL IMPROVEMENT PLANS REQUIRED.

(A) As required by O.R.S. 223.309, the city has prepared and adopted the following Public Facility Master Plans. The plans, as may be amended, are hereby adopted by reference as though set forth in full herein. The plans are available for public inspection at the office of the City Manager.

- (1) the current City of Prineville Transportation System Plan;
- (2) the current City of Prineville Water Facility Plan; and
- (3) the current City of Prineville Wastewater Facility Plan
- (4) the current City of Prineville Capital Facilities Improvement Plan.

(B) Plans identified in division (A) of this section may be modified, revised, amended and/or updated by the city at any time.

(C) Copies of all such proposed modifications, revisions, amendments and/or updates to such Plans shall be available for public inspection not less than thirty days prior to any public hearing thereon.

(Ord. 1086, passed 12-28-02)

#### § 40.06 DETERMINATION OF AMOUNT OF SDC'S.

(A) 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 or the cost of the existing facilities, 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.

- (B) Improvement fees shall be established by City Council resolution setting forth a methodology that considers the cost of projected capital improvements identified in adopted Capital Improvement Plans needed to increase the capacity of the systems to which the fee is related and required to serve the demands placed on the system by future users. The methodology for establishing such fees shall be available for public inspection.  
(Ord. 1086, passed 12-28-00)
  
- (C) Because the SDC and supporting calculations, including the credits established herein, are closely related to the cost of construction of the capital improvements for each of the systems, the SDC and calculations for each system shall be automatically adjusted annually based upon the Seattle Construction Cost Index published by Engineering News Record (ENR) by calculating the percentage increase/decrease in the index for the period since the last adjustment and then applying that percentage to the figures used to calculate the SDC and any credits.

#### § 40.07 PROCEDURES FOR SDC CREDIT OR REFUND.

Developers who wish to expand the City's Public Facility Master Plan Systems may do so according to the following procedure.

- (A) Improvements must be approved by the City.
  
- (B) An agreement between the developer and the City shall be required and shall set forth the development requirements, as well as, the SDC credit and/or SDC refund, if available.
  
- (C) All improvements must be constructed according to City standards, rules and regulations, including the City's Master Plan, as determined by the Public Works Director.
  
- (D) All of the costs of such improvements shall be paid by the developer.
  
- (E) The developer's costs associated with the construction of these qualified public improvements may be eligible for a System Development Charge (SDC) credit and/or SDC refund as provided in this Ordinance

#### § 40.08 CREDIT AGAINST SDC's AND REFUNDS

- (A) 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 223.297 to 223.314. In addition to, or in lieu of the SDC credit, a developer is eligible for an SDC refund. 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 § 40.05 and either: (1) Not located on or contiguous to property that is the subject of development approval; or (2) 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.

(B) The credit or refund provided for in division (A) 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 division (A) 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. Such credits or refunds shall only be utilized on the property that is subject to the development approval. Credits or refunds can be transferred between entities, but can only be utilized on the site from which the credits or refunds were created. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit or refund under division (C) of this section. Qualified costs shall include actual costs, including actual expenditures for engineering and/or surveying.

(1) If land is required to be dedicated to the public for right-of-way for a collector or arterial street as a condition of development approval, the development may be credited or a refund issued for that exaction, but only for the right of way area over and above that required for a local street or other lower class street deemed necessary to serve the proposed development. The value of such land will be determined by the Real Market Value last recorded on the most recent available tax assessor's records for the parcel being developed.

(2) Land required to be dedicated to the public for any classification of streets other than collector or arterial, will be deemed to be for the developer's benefit and will not be compensated by the SDC credits or refund. No credit or refund will be given for land deeded or dedicated prior to the effective date of this ordinance.

(3) Where it is a condition of development approval that the developer either provide, in part or in its entirety, a street improvement or traffic device, or sewer or water component

that provides additional capacity on a collector or arterial street, or in the water or sewer system of the City, the developer may receive compensation by credit or refund for the reasonable cost of that additional capacity, unless the need for the improvement is specifically attributable to that development. For example, if a 6" sewer line would be adequate to provide necessary services to a specific development, but a 10' line is required to provide additional capacity for future development in the immediate area, then compensation for the difference in costs from a 6' line to a 10' line could be approved. However, for example, a traffic signal at a shopping center entrance would be considered specifically attributable to the shopping center and no credit or refund would be allowed. If for its convenience, a developer wishes to provide a greater facility than required or wishes to construct a facility prior to the time that the City ordinarily would, the City, at its sole discretion, may elect to participate but shall not be required to do so.

- (C) When the construction of a qualified public improvement as defined in division (A) of this section gives rise to a credit or refund amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit or refund may be applied against improvement fees that accrue in subsequent phases of the original development project or may be refunded from fees collected in subsequent phases of the original development project.
- (D) Credits or refunds shall be used in the time specified by the city but not later than ten (10) years from the date the improvement is accepted by the City.
- (E) The resolution that establishes an improvement fee shall also provide for a credit or refund 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:
  - (1) Applies for and receives building permits to complete planned LID and/or development construction within 10 years of the date of original LID and/or development approval unless otherwise approved by the city;
  - (2) Pays all required LID fees on schedule in compliance with the original LID conditions.
- (F) The credit or refund provided for in this section 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 or in whole, accruing in subsequent phases or the original LID project, subject to city approval.

(1)

#### § 40.09 PAYMENT SCHEDULES

- (A) SDC credits or refundson building permits or refunds shall be allowed within ten (10) years after the completion and acceptance of the improvement giving rise to credit or refund unless otherwise approved by the City.
- (B) SDC refund amounts shall be payable annually by the City from SDC improvement fees collected by the City from January 1 through December 31 of each year by February 28 of the year following collection by the City.
- (C) SDC credits shall be offset against SDC fees when due.
- (D) No interest shall accrue on SDC credit or SDC refund payable to developers.
- (E) There shall be no adjustments made to the amount of any SDC credit or SDC refund amount as a result of inflation.
- (F) If no money is collected in a given fiscal year, no money shall be eligible for refund.

#### § 40.10 ASSIGNMENT OF CLAIMS

- (A) Claims for SDC credit and SDC refund are personal and may be assigned without the written consent of the City. Copies of the assignment of said claims must be delivered to and approved by the City.

#### § 40.11 CITY'S OBLIGATION TO PAY

- (A) The City's obligation to pay or apply SDC credit or refund for a qualified public improvement shall be limited to SDC improvement fees actually collected by the City for such public improvements as provided for in this policy. The City's obligation to pay is limited by the amount actually collected for the particular public improvement. City's obligation to pay or apply SDC credit or SDC refund from SDC fees collected shall be further limited to the total of the SDC credit and SDC refund calculated as provided for in this policy. Recipients of SDC credit and SDC refund shall indemnify and hold the City harmless in the event the City is subject to claims by others for SDC credit or SDC refund for the same improvements. City shall have the right to set off the amount of any competing claims for SDC credit or SDC refund against prior claims for the same SDC credit or SDC refund if in the City's judgment it becomes necessary to do so.
- (B) No payments shall be made from funds collected prior to the date of the City's acceptance of the public improvement from the developer.



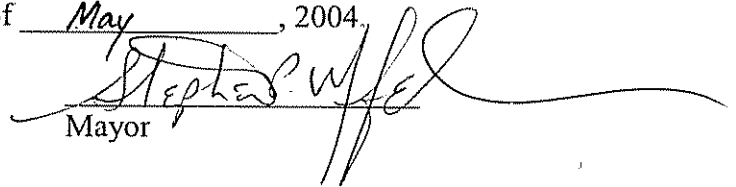
Payments shall only be made from the fund applicable to the type of improvement made.


§ 40.12 ENACTMENT

This Ordinance shall be in full force and effect on and after July 1, 2004.

Passed by the City Council this 25<sup>th</sup> day of May, 2004.

Approved by the Mayor this 25<sup>th</sup> day of May, 2004.

  
Mayor

Attest:   
City Recorder

Date 5-25-04