

ORDINANCE NO. 566-0

AN ORDINANCE AMENDING ORDINANCE NO. 530 AND IMPOSING STORM SEWER SYSTEM DEVELOPMENT CHARGES, CREATING A STORM SEWER IMPROVEMENT FUND AND DECLARING AN EMERGENCY.

WHEREAS, There is a need to reaffirm and create a fair and equitable environment for the collection and utilization of street, water and sewer system development charges (SDC) for budgeted and reserved capital needs; and

WHEREAS, The cost of such systems and equipment capital reserves exceed the funds provided by state gas tax revenue apportionment, water, sewer and storm water user fees; and

WHEREAS, The use of SDC resources, to be allocated to an equitable share of the facilities cost caused by the impacts of new development or to recoup and offset prior City investments spent to build the reserve capacity that allows growth or to provide for capital reserve, provides an equitable resource for distribution to related costs.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THAT:

Section 1. Short Title

This Ordinance shall be known as the SYSTEM DEVELOPMENT CHARGE ORDINANCE.

Section 2. Intent

Fees for System Development Charges shall be levied and imposed upon the owner of any dwelling used for human occupancy, employment, recreation or other purposes situated on property within the City of Troutdale and abutting on any street, alley, easement, or right-of-way to which there is now located or will be located in the future any streets, sanitary sewer, water or storm water system. These charges will also be levied upon any other properties utilizing or impacting the City's street, sanitary sewer, water or storm water system(s).

Section 3. Authority & Affirmation

Pursuant to the statutes of the State of Oregon and the powers granted in the charter in the City of Troutdale, the City does hereby declare and reaffirm its intention to:

- A) Acquire, own, construct, equip, operate and maintain a comprehensive Sanitary Sewerage Collection and Treatment System; to extend and expand the existing sanitary sewerage collection and treatment system of said City; and to reconstruct such existing portions of the City system that may be deemed proper by the City Council or the State Department of Environmental Quality or the Federal Environmental Protection Agency; to collect system development charges appropriate to the capital and capital reserve needs of said system.
- B) Acquire, own, construct, equip, operate and maintain a comprehensive Water Supply and Storage System; to expand and extend the existing water supply system of said City; and to reconstruct such existing portions of the system as may be deemed proper by the City Council or the State Department of Environmental Quality or the Federal Environmental Protection Agency and the State Water Resource Department; to collect system development charges appropriate to the capital and capital reserve needs of said system.
- C) Acquire, own, construct, equip, operate and maintain a comprehensive Street System complete with appropriate storm drainage facilities; to expand and extend the existing street and storm drainage system of said City; and to reconstruct such existing portions of the system as may be deemed proper by the City Council; to collect system development charges appropriate to the capital and capital reserve needs of said system and as may be declared necessary and conducive to the protection of public health, safety, welfare and convenience of the City of Troutdale.
- D) Acquire, own, construct, equip, operate and maintain a comprehensive storm water collection and pumping system; to extend and expand the existing storm water collection and pumping system of said City and to reconstruct such existing portions of the City's system that may be deemed proper by the City Council or the State Department of Environmental Quality or the Federal Environmental Protection Agency; to collect system development charges appropriate to the capital and capital reserve needs of said system.

Section 4. Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

- A) "ERU" (Denoting Equivalent Residential Unit).

"WATER ERU" shall mean a unit of water which incurs the same cost for production, storage, and maintenance as the average volume of water used in a single family residence in the water service area.

"SEWER ERU" shall mean the unit of wastewater which incurs the same cost for operation and maintenance as the average liquid volume and biological, solids and

chemical concentration as that of domestic waste discharged from a single family residence in the wastewater treatment service area.

"STREET ERU" shall mean the average weekday vehicle trip-ends for single-family detached housing as determined and set forth by the Institute of Transportation Engineers, Trip Generation Report, 1982, or most recent edition. A copy of the "Trip Generation Standards" is kept on file and available for review at the City Recorder's office.

"STORM WATER ERU" shall mean the unit of storm water which incurs the same cost for operation and maintenance as the average liquid volume and biological, solids and chemical concentration as that of storm water discharged from a single family residential lot in the designated storm water collection area.

- B) "SDC" (Denoting System Development Charge) shall mean a charge imposed for system capacity improvement, expansion and recapture of prior investments spent to build future capacity, or reserves.
- C) "Operation & Maintenance" shall mean those functions that result in expenditures during the useful life of the system for materials, labor, utilities and other such items which are necessary for the management and upkeep for which such facilities were designed and constructed.
- D) "Renewal & Replacement" shall mean expenditures required to maintain the current system capacities, integrity, safety and service level standards for which said systems were designed and constructed.
- E) "Useful Life" shall mean the estimated period for which the system(s) was designed and/or expected to be operated.
- F) "Trip-ends" shall mean the total of all trips entering plus all trips leaving a designated land-use or building type over a given period of time.
- G) "Street System" shall mean any legally established right-of-way together with associated pavement, sidewalks, crosswalks, handicap ramps, curbs, gutters, ditches, et cetera, designed primarily for vehicular traffic but also to accommodate bicycle and pedestrian circulation features as well.
- H) "Water System" shall mean all facilities and appurtenances necessary to provide potable and fire flow water requirements including wells, pumps, reservoirs, transmission and distribution lines, valves, pressure regulating and reducing facilities, fire hydrants, etc.

- I) "Sanitary Sewer System" shall mean any device and system for the collection, storage, treatment, recycling, reclamation, treatment and discharge of all wastes in compliance with local, state, and federal requirements and includes sewerlines, manholes, treatment, sludge disposal and pumping facilities, etc.
- J) "Storm Water System" shall mean any device and system for the collection, detention, retention, treatment, recycling, reclamation, pumping and discharge of all storm water collected in compliance with local, state and federal requirements, and includes storm sewer lines, ditch systems, culverts, detention/retention basins, catch basins, manholes, treatment, grit disposal, pump facilities, etc.
- K) "Director" shall mean the Director of Community Services, Director of Public Works or other designated official.
- L) "Substantial Change" shall mean any change in use or occupancy type and/or any increase in measured use equal to or greater than 10% over the last established value(s). If no previous use and value had been established, "Substantial Change" shall mean any impact on the public facilities addressed in this ordinance.

Section 5. Fiscal Accountability

- A) All Street System Development Charges collected for the fiscal year 1987-88 shall be deposited in the State Tax Street Fund, and shall be subject to use for capital expansion as well as renewal and replacement expenditures as budgeted.
- B) A Street Improvement Fund shall be established and maintained beginning in fiscal year 1988-89, and all system development charges levied and collected shall be deposited in this separate non-lapsing fund known as the Street Improvement Fund. Resource and expenditure line items will include both street and street cleaning capital budgets.
- C) Water System Development Charges levied and collected shall be deposited in a separate non-lapsing fund known as the Water Improvement Fund.
- D) Revenues collected for Sewer System Development Charges shall be deposited in a separate non-lapsing fund known as the Sewer Improvement Fund.
- E) All storm water system development charges collected for the fiscal year 1990-91 shall be deposited in the sewer improvement fund and shall be subject to the use for capital expansion as well as renewal and replacement specific to storm water facilities as budgeted or approved.

- F) A storm water improvement fund shall be established and maintained beginning in the fiscal year 1991-92, and all system development charges levied and collected shall be deposited in this separate non-lapsing fund known as the storm water improvement fund.
- G) Fiscal year-end balances for the Street, Sewer, Water and Storm Sewer Improvement Funds shall be used for no other purposes than those designated in the appropriate budget(s) established for that fund. Monies which have been transferred from other sources to meet temporary shortages shall be returned within the time frame set forth by City policy and State statutes. Monies transferred to other municipal accounts to meet temporary shortages shall be returned and shall not affect the future rates established for the maintenance and support of these improvement funds.

Section 6. Establishment and Review of Equivalent Residential Units (ERU)

A) WASTEWATER

- 1. The Director shall assign each user an equivalent residential unit (ERU) as defined in this Ordinance for the purpose of establishing Wastewater User Fees and Wastewater System Development and Improvement Charges.

The following equivalent residential units are hereby established for the following use classes:

USER CLASS	ERU	UNIT
Residential:		
Single-Family	1.00	Per household
Multi-Family	1.00 .70	Per 1st household per 2nd and each additional unit
Mobile Home Parks	1.00 .88	Per household and each additional unit
Trailer & RV Parks	1.00 .30	For each permanent or separate care- taker or other living facility and per space

Commercial:

Cocktail Lounges, Bars, & Taverns	.06	Per seat
Laundromat	1.52	Per washer
Motel/Hotels	1.00	Per management quarters and per each additional unit
	.36	
Office	.08	Per employee
Retail	.09	Per employee
Pizza Parlors	.09	Per seat
Restaurants	.12	Per seat
Community Service:		
Churches	.02	Per seat
Schools (elementary)	.06	Per occupant
(high school)	.09	Per occupant
Open	.08	Per employee

Additional equivalent residential units will be established for those facilities such as office, factories, et cetera, that provide kitchen facilities, shower facilities or other amenities that can add to the quantity and quality of wastewater discharges. Hotels, motels, and other facilities utilizing laundry facilities will be assessed the additional loading that those facilities place on the system.

2. Should any user believe that he has been incorrectly assigned to a particular user class or incorrectly assigned a number of ERU's or should any user believe that a portion of his metered water flow is not discharged into the sewerage system, that user may apply for a review of his Wastewater System Development Charge.
3. Should the Director determine that a user was incorrectly assigned to a user class or incorrectly assigned a number of ERU's, he shall reassign a more appropriate user class or number of ERU's to that user and shall notify that user of such reassignment.

4. Records for all assigned rates and any assigned wastewater volumes and strengths to users or user classes as well as the wastewater characteristics forming the basis of the ERU shall be kept on file with the City Recorder and shall be opened for public inspection.
5. Any user which cannot be classified by virtue of the volume and/or strength of his waste in any of the above user classes shall be considered a special user. If the strength of such waste is not significantly different from that of normal household waste, such user shall be placed in the open class and assigned the appropriate wastewater volume. If the wastewater strength is significantly different from that of normal household wastes, a special charge based on both volume and strength shall be assigned to that user by the Director. Significant difference shall be assumed when any wastewater component(s) (i.e. flow, BOD, SS, etc.) deviation from "normal domestic wastewater" is greater than 10% on a monthly average or "slug" discharge.
6. All houses, buildings, or properties used for human occupancy, employment, recreation or other purposes which are required to connect to the public sewer under the provisions of City Ordinance No. 280 shall pay a System Development Charge which shall be equal to the amounts set forth in a resolution setting Wastewater, Water and Street System Development Charges multiplied by the equivalent residential units as set forth by this Ordinance and/or as determined by the Director.

B) WATER

1. The Director shall assign each user an equivalent residential unit (ERU) as defined in this Ordinance for the purpose of establishing Water System Development and Improvement Charges.
2. The ERU calculation for water system use shall compare the proposed or actual consumption to that of a single family residence as defined under "WATER ERU". In any case, the Director will calculate the approximate equivalent residential unit and SDC charges. Such charges shall be immediately due and payable.

C) STREETS

1. The following equivalent residential units are hereby established for the following use classes:

USER CLASS	ERU	UNIT
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Residential:

Single Family	1.00	Per household
Duplex, triplex, 4-plex	.70	Per household
Apartments and other similar multi housing facilities	.63	Per housing unit
Condominiums	.52	Per housing unit
Mobile or manufactured home	.48	Per housing unit

All trip generations rates for port and terminal, industrial/agricultural, lodging, recreation, institutional, medical, office, retail, services and other uses will be established by value set forth in the "Trip Generation Standards" developed by the Institute of Transportation Engineers or by the calculation methods established and set forth within this document or as established by a licensed (certified) traffic engineer approved by the City. All costs for traffic engineering and studies shall be born by the applicant.

A copy of the "Trip Generation Standards" is kept on file and available for review at the City Recorder's office.

2. Except as required in the Development Ordinance and Development Standards document, all residential, commercial, industrial and other development abutting any state, county, city arterial, collector or local road and requiring the dedication of right-of-way and/or construction of improvements relating to said road system(s) shall be credited an amount not exceeding 75% of the calculated Street System Development costs.
3. All development abutting the interstate road system and associated frontage roads, ramps and interchanges, state or county arterial or collector roads, shall be allowed to demonstrate the percentage of trip generation associated with their development specific only to the abutting road system and shall be credited an amount not exceeding 85% of the calculated Street System Development costs.
4. In no case shall the combination of trip generation credits and/or road system improvement credits exceed 90% of the calculated equivalent residential unit.
5. Where right-of-way dedication, construction requirements, and other trip generation credits are offered, an additional review may be made of the impact

on the storm water system and the provisions of Section 8 of this Ordinance shall apply.

6. Street SDC credits for street cleaning equipment may be reviewed separately and may not be in the same proportion as other street SDC credits.

D) STORM WATER

1. The director shall assign each user an equivalent residential unit (ERU) as defined in this ordinance for the purpose of establishing storm water user fees and storm water system development and improvement charges.
2. The ERU calculations for storm water use shall compare the proposed (calculated) storm water discharge to that of a single family resident as defined under "Storm Water ERU". The director will calculate the number of equivalent residential units based on impervious surface area. Such charges shall be due and payable prior the issuance of any building permits.

Section 7. Change in Use

Any substantial change in size or type of use resulting in the increase utilization of the City's street, water, wastewater and storm water systems will require the payment of additional SDC's at the time such development request or substantial change in use is made. No credit will be given for a decrease in use.

No credit shall be extended to any development or property for uses/connections made prior to the imposition of any ordinance requiring the collection of "improvement fees" or "system development charges" when such original use has changed or been terminated, in the case of storm water drainage "any change of use" shall mean any increase of impervious surface area installed. Existing system users who have not paid SDC's shall be treated as a new user and SDC's shall be collected when the use is changed or when the prior use is abandoned.

Section 8. Unknown System Development Charge

When the anticipated street, water, wastewater and storm water system utilization cannot be determined prior to the connection to or use of the facility, the owner shall pay a deposit of 25% of all affected System Development Charges based upon an estimated total "ERU". The actual amount of the System Development Charge shall be paid when the actual usage can be determined. The City may require the owner to enter into an agreement to pay the actual System Development Charges as they are ascertained. In no case shall the establishment of this actual value exceed a two year period of time from the issuance of a certificate of occupancy. Failure to pay any agreed upon balance when due will be cause for immediate termination of both water and sewer services.

Section 9. System Development Charges Shall Attach To the Land

All System Development Charges paid shall apply to the property and shall not be personal to the person paying the charges. Credits for System Development Charges paid may not be transferred to other properties except as authorized by Council resolution.

Section 10 - Failure to Pay System Development Charges

- A. No site, development or building permits will be issued until all system development charges are paid in full or until an agreement is reached with the City for their phased payment prior to the issuance of a certificate of occupancy. In no case, unless Section 8 of this ordinance is implemented by agreement with the developer, will a certificate of occupancy be issued without full and complete payment of all system development charges imposed under the provisions of this ordinance.
- B. Should a developer/development wish to exercise the rights of Section 8 (Unknown System Development Charge) of this ordinance, a certificate of occupancy will be issued without specific regard to the final payment of system development charges.
- C. If system development charges are not paid within the time-frame specified in Section 8, or as mutually agreed, all appropriate water, sewer and/or other applicable services will be disconnected and, if the charges remain unpaid for one year after their final due date, such charges shall be recorded in the Multnomah County Assessor's and/or recorder's office by the City Recorder and shall, following property owner notification as mandated by State statute, constitute a lien on the property. If such lien (including interest and penalties) remains unpaid for a period of one year after the date of recordation, such property shall be subject to public sale by the recorder of the City of Troutdale and in accordance with Oregon State statutes.

Section 11. Appeals

- A) Any owner or developer who disagrees with his calculated equivalent residential unit or system development charge may make written application to the Director of Community Services or designated official requesting a review of said charges. This written request shall, where necessary, show the actual or estimated trip generation, water volume or demand, wastewater volume or strength, storm water volume or strength, et cetera, in comparison with the values upon which the charge is based, including how the measurements or estimates were made.
- B) Review of their request shall be made by the Director of Public Works, and the system development charges for that development shall be re-computed based upon the revised data and new charges levied or credited accordingly.

- C) Any person disputing the findings of the Director of Public Works, his designated official or the interpretation of this Ordinance may appeal to the Common Council of the City of Troutdale or its appointed hearings officer. In such an event, the Director of Community Services shall set a date, time and place of hearing and the grieved party shall make such an appeal to the Director or the City Council in writing and shall set forth therein all issues relevant to his appeal.
- D) Any violation of this Ordinance or order of the Common Council may be enforced through appropriate legal action. Upon authorization by the Common Council, the City may seek legal or equitable relief to enforce the provisions hereof. In the event a health or safety hazard exists or other emergency, judicial relief may be sought prior to the hearing as set forth previously.

Section 12. Charge Setting Policy

- A) The City will review the SDC amounts in conjunction with Troutdale City Council policy, budgetary requirements, needs requirement of any established and adopted capital improvements program, capital equipment budgets in combination or by themselves, together with Council policy or other issues the Council may wish to consider.

Section 13. Severability Clause

If any clause, sentence, paragraph, section, or portion of this Ordinance for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance, but shall be confined in its operation to the clause, sentence, paragraph, section or portion of this ordinance directly involved in the controversy in which the judgment is rendered. In case of conflict with prior Ordinances, the provisions of this Ordinance shall prevail.

Section 14. Repealing a Previous Ordinance

Ordinance No. 346-0 passed on 2-10-81 is hereby repealed in total. Ordinance No. 280 (Section 12 & 13) passed on 2-13-79 is hereby repealed. Ordinance No. 279 (Section 11C) passed on 2-13-79 is hereby repealed. Ordinance No. 505-0 passed on 1-12-88 is hereby amended to include a new Section 10, to delete Section 15, and to re-index Sections 10-14 to 11-14.

Section 15. Declaration of an Emergency.

Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the people of the City of Troutdale in the judgment of the Common Council, now, therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Troutdale, and its signing by the Mayor.

PASSED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 26TH
DAY OF FEBRUARY, 1991.

YEAS 4

NAYS 1 (Fowler)

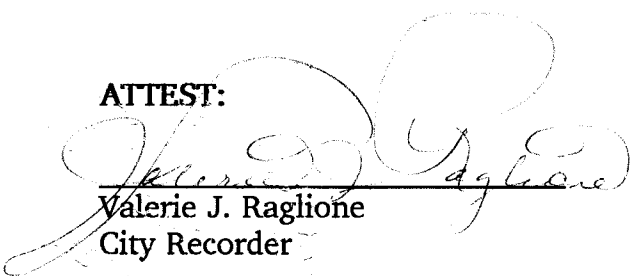
ABSTAINED 0



Sam K. Cox, Mayor

Date Signed: February 27, 1991

ATTEST:



Valerie J. Raglione
City Recorder

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