

ORDINANCE NO. 655

AN ORDINANCE REVISING ADMINISTRATIVE PROCEDURES FOR SYSTEM DEVELOPMENT CHARGES, AMENDING SECTION 12.01.100 OF THE TROUTDALE MUNICIPAL CODE, AND AMENDING CHAPTER 12.02 OF THE TROUTDALE MUNICIPAL CODE.

WHEREAS, Chapter 12.02 of the Troutdale Municipal Code provides the legislative authority and certain administrative procedures for the City's application of system development charges; and

WHEREAS, Section 12.01.100 of the Troutdale Municipal Code pertains to procedures for appealing decisions of the Public Works Director in all matters, including those covered in Chapter 12.02; and

WHEREAS, it has been found that these two portions of the Troutdale Municipal Code are in conflict; and

WHEREAS, it has been found that certain portions of Chapter 12.02 of the Troutdale Municipal Code are unclear, confusing, or not as prescribed by State law; and

WHEREAS, the proposed changes to Section 12.01.100 and Chapter 12.02 of the Troutdale Municipal Code are intended to correct these shortcomings.


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


SECTION 1. Section 12.01.100 (Appeals) of the Troutdale Municipal Code is amended to read: An appeal from a decision made by the Director concerning any administrative determination made under this Title 12, other than determinations pertaining to system development charges made pursuant to Chapter 12.02, and determinations pertaining to termination of water services made pursuant to Chapter 12.03, may be appealed to the City Administrator, provided that the appeal is submitted in writing no more than thirty days after the decision is made by the Director. The appeal must state the particular matter in dispute, the reason(s) for differing with the Director, and the specific relief sought.

SECTION 2. Chapter 12.02 of the Troutdale Municipal Code is amended to read as indicated in Attachment A, which is incorporated herein and made a part hereof.

SECTION 3. The former provisions of Section 12.01.100 and Chapter 12.02 of the Troutdale Municipal Code continue to apply to any development for which a building permit is issued prior to the effective date of this ordinance.

YEAS: 7
NAYS: 0
ABSTAINED: 0


Paul A. Thalhofer, Mayor
Dated: 10-30-97


George Martinez, City Recorder
Adopted: 10-28-97

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CHAPTER 12.02

SYSTEM DEVELOPMENT CHARGES

SECTIONS:

- 12.02.010 Title
- 12.02.015 Definitions
- 12.02.020 Intent and Scope
- 12.02.030 System Development Charges Established
- 12.02.040 Methodology
- 12.02.050 Compliance with State Law
- 12.02.060 Collection of Charge
- 12.02.070 Exemptions and Pre-existing Conditions
- 12.02.080 Credits
- 12.02.090 Appeal Procedures
- 12.02.100 Prohibited Connections

12.02.010 Title

This chapter of the Troutdale Municipal Code shall be entitled "System Development Charges".

12.02.15 Definitions

- A. "Improvement fee" means a fee for costs associated with capital improvements to be constructed.
- B. "Reimbursement fee" means a fee for costs associated with capital improvements already constructed or under construction.
- C. "System development charge" means a reimbursement fee, an improvement fee, or a combination thereof assessed and 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
- D. "Qualified public improvement" means a capital improvement that is required as a condition of development approval, is identified in the Capital Improvement Plan, and is 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 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 fee is related.

12.02.020 Intent and Scope

- A. Pursuant to the statutes of the State of Oregon and the powers granted in the Charter of the City, the Council finds, declares, and affirms its intent to impose System Development Charges.
- B. The purpose of the system development charge is to impose an equitable share of the public costs of capital improvements upon those developments that create the need for or increase the demands on capital improvements.
- C. The system development charge as imposed by this chapter is separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, or fee otherwise provided by law or imposed as a condition of development.

12.02.030 System Development Charges Established

- A. Unless otherwise exempted by the provisions of this chapter or other local or state law, a system development charge is hereby imposed upon all new development within the City, and all new development outside the boundary of the City that connects to or otherwise uses the sanitary sewer system, storm drainage system, water system, street system, or park and recreation system of the City.
- B. System development charges for each type of capital improvement shall be calculated through application of the methodologies described in this chapter and further described in the appropriate implementing resolution. The amount of each system development charge shall be adopted initially by Council resolution. Changes in the amounts shall also be adopted by resolution. Inflationary cost impacts shall be measured and calculated annually by the City Administrator and presented to the Council for consideration. Such calculations will be based upon Pacific Northwest construction cost changes in the Engineering News Record Construction Cost Index (ENR Index) as represented by the City of Seattle, Washington, or any successor index to this measurement

12.02.040 Methodology

- A. The methodology used to establish a reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of

unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors. 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 and shall provide for a credit against the fee for the construction of a qualified public improvement.**
- C. The City Recorder 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 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 30 days prior to the first hearing to adopt or amend. The City Recorder may periodically delete names from the list, but at least 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 wishes to remain on the notification list.**

12.02.050 Compliance with State Law

- A. The revenues received from the system development charges shall be budgeted and expended as provided by state law. Such revenues and expenditures shall be accounted for as required by state law. Their reporting shall be included in the City's Comprehensive Annual Financial Report required by ORS Chapter 294.**
- B. The plan for capital improvements required by state law as the basis for expending the improvement fee component of systems development charge revenues shall be the Troutdale Capital Improvements Plan (CIP), adopted facilities plans, or the capital improvement plan of any other governmental entity with which the City has cooperative agreement for the financing of commonly-used public improvements by the collection of system charges, provided such plans of other governmental entities conform with State Law and are consistent with the City's CIP and the City's Comprehensive Plan.**

12.02.060 Collection of Charge

- A. The system development charge is payable upon, and as a condition of, issuance of:
 - 1. A permit for new construction; or****

2. A permit for the renovation, rehabilitation, alteration or modification of a structure or use; or
 3. A public works permit allowing connection to the water, sanitary sewer or storm drainage system(s), or
 4. A permit authorizing access to a public street.
- B.** If development is commenced or connection is made to the water system, sanitary sewer system, storm sewer system or street system without an appropriate permit, the system development charge is payable within thirty days following a demand for payment by the City, and it will be unlawful for anyone to continue with the construction or use of the development until the charge has been paid.

12.02.070 Exemptions and Pre-Existing Conditions

- A.** The following are exempt from the system development charges imposed in this chapter:
1. Existing facilities as of July 11, 1995 (for transportation SDC's only), but the exemption shall not include additions to or expansion of any existing facility.
 2. The impervious surface of a street, road, highway, runway, or taxiway constructed by a governmental entity or by a private entity when the street, road, highway, runway, or taxiway is to be transferred to a governmental entity immediately upon its completion.
- B.** For pre-existing conditions, the system development charge (SDC) will be based only upon the increased impact on the use of public facilities after granting an allowance for pre-existing use. The allowance for pre-existing use shall establish the number of pre-existing hydraulic equivalents for water SDCs, the number of pre-existing equivalent residential units for sanitary sewer SDCs, the number of pre-existing PM Peak Hour Trip Ends for transportation SDCs, and the amount of pre-existing impervious surface area for storm water SDCs.

12.02.080 Credits

- A.** A credit shall be allowed only for the improvement fee charged for the type of improvement being constructed. Credit may be granted only for the cost of that portion of the improvement that exceeds City standards or the facility size or capacity needed to serve the development project. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit.

- B. When the construction of a qualified public improvement 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. Credits shall be used within 5 years from the date the credit is given.**
- C. All credit requests must be in writing and filed with the City Administrator prior to the issuance of a building permit. A building permit shall not be issued until the credit request is acted upon by the City Administrator. The request shall clearly show the capacity of the minimum improvement required for the development and its cost, the capacity of the proposed improvement and its cost, the reason the improvement creates a public benefit and the public savings thereof, and the credit requested. The credit provided shall not exceed the lesser of the incremental increase in cost to provide the improvement or the public savings.**
- D. Credits shall only apply against system development charges and shall be apportioned against the property which was subject to the requirement to construct an improvement eligible for credit.**
- E. Sewer reservations purchased under previously imposed ordinances by the City will be recognized under their original terms and conditions. Owners of property who have sewer reservations may transfer them to other properties which they currently own by submitting a written request to the Director, provided that such transfer may not result in the gaining property acquiring more reservations than the property may utilize in accordance with current zoning.**

12.02.090 Appeal Procedures

- A. An appeal of an expenditure of system development charge revenues must be filed with the City Recorder within 2 years of the expenditure.**
- B. The appeal shall state:
 - 1. The name and address of the appellant;**
 - 2. The nature of the expenditure being appealed; and**
 - 3. The reason the expenditure is incorrect.****
- C. The City Administrator shall order an investigation and direct that within 60 days of receipt of the appeal that a written report be filed with the Council by the Director recommending appropriate action. Within 30 days of receipt of the report, the Council shall conduct a hearing to consider the appeal. At least 10 working days advance notice of the hearing, including a copy of the report, shall**

be mailed to the appellant. Appellants shall have a reasonable opportunity to present their position at the hearing.

- D. The appellant shall have the burden of proof. Evidence and argument shall be limited to grounds specified in the appeal. The Council shall issue a written decision after the hearing is concluded stating the basis for its conclusion and directing appropriate action be taken.
- E. Review of the Council decision shall be as provided in ORS 34.010.

12.02.100 Prohibited Connections

It shall be unlawful for any person to connect any premises for service, or cause the same to be connected, to any sanitary sewer, water system, storm sewer system, or street system of the City unless the appropriate system development charge has been paid or payment has been secured as provided in this Code.