

ORDINANCE NO. 785

AN ORDINANCE CLARIFYING PROCEDURES FOR IMPOSING SYSTEM DEVELOPMENT CHARGES AND AMENDING CHAPTER 12.02 OF THE TROUTDALE MUNICIPAL CODE


THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. It is desirable to clarify that system development charges are for the benefit of the property where the development that utilized the system exists by amending Section 12.02.020 of the Troutdale Municipal Code.
2. It is desirable to make minor administrative corrections to Sections 12.02.030, 12.02.050, 12.02.080 and 12.02.100 of the Troutdale Municipal Code.
3. It is desirable to clarify when the system development charge is collected by amending Section 12.02.060 of the Troutdale Municipal Code.
4. It is desirable to clarify that a reduction of a system development charge for a pre-existing condition only applies if the previous development occurred within the City limits by amending Section 12.02.070 of the Troutdale Municipal Code.

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

Chapter 12.02 of the Troutdale Municipal Code is amended to read as provided in Attachment 1 (Chapter 12.02, System Development Charges).

YEAS: 7
NAYS: 0
ABSTAINED: 0


Paul A. Thalhofer, Mayor
March 15, 2007
Date


Debbie Stickney, City Recorder

Adopted: March 13, 2007

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
- 12.02.085 Refunds
- 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".

12.02.015 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.
- D. Payment of a system development charge secures an amount of system capacity for the benefit of the property where the development that utilized the system exists. System capacity that is secured as a result of development on a particular piece of property shall not be transferred to another property except as provided for in Section 12.02.080 (E).

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 imposed upon all new development within the City, and all new development outside the boundary of the City, that connects to, utilizes, or otherwise places a demand on the sanitary sewer system, storm sewer system, water system, transportation system, or park and recreation system.
- 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. Alternatively, the resolution setting the amount of a system development charge may authorize an automatic annual inflationary adjustment of the system

development charge using the ENR Index or any other comparable index specifically identified in the resolution.

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 ninety 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 sixty days prior to the first hearing to adopt or amend. The City Recorder may periodically delete names from the list, but at least thirty 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 development 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.

- C. The Council may modify the Capital Improvement Plan and project list at any time. If a system development charge will be increased by a proposed modification of the list to include a capacity increasing capital improvement, the City shall provide at least 30 days written notice of the proposed modification to the persons who have requested written notice under Section 12.02.040(C).

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, usage is increased, or connection is made to the water system, sanitary sewer system, storm sewer system, or transportation system without an appropriate permit, or when no permit is required, 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.
- C. The owner of property where increased usage occurs is responsible for notifying the Director of such.

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. In calculating the system development charge, the amount of the charge shall be reduced by the current value of system capacity previously purchased from the City for the parcel(s) under development. System capacity shall be measured in hydraulic equivalents for water, in equivalent residential units for sanitary sewer, in PM peak hour trip ends for transportation, and in impervious surface area for storm sewer. When an existing or previous development has used one or more of these City systems but predates the imposition of system development charges, there shall be a presumption of the purchase of system capacity through some other means, equivalent to the normal and customary demand such a development places on the applicable system(s), and the appropriate reduction in the system development charge shall be allowed. No reduction shall be made if the parcel was not within the corporate limits of the City when the existing or previous development occurred.

12.02.080 Credits

- A. A credit shall be allowed only for the improvement fee charged for the type of qualified public 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 qualified public improvement required for the development and its cost, the capacity of the proposed qualified public 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 qualified public 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.

12.02.085 Refunds

- A. An applicant who pays system development charges on or after September 1, 1997, and subsequently reduces the scope of the planned improvements upon which the system development charges were calculated by not constructing all or a portion of the improvements, may be granted a refund subject to all of the following conditions:
 - 1. Prior to the request for the refund, the City had not expended any funds in planning, designing, or constructing a larger or greater capacity improvement based upon the original scope of the development in question.
 - 2. The difference in system development charges between the original scope and reduced scope of the development amounted to at least twenty (20) percent of the system development charge paid or at least \$5,000, whichever is less.
 - 3. The request for a refund must be submitted in writing to the Director within ninety (90) days after payment of the system development charge. The request must state the name and address of the applicant, the location and description of the development, the original scope of the project and the amount of system development charges paid, the reduced scope of the project and the amount of system development charges that would be paid on such reduced scope, and the amount of the refund requested. Any refund request submitted after July 1, 1998, must also be accompanied by a non-refundable processing fee of one hundred and fifty dollars.
- B. The amount of the refund granted under the conditions in Paragraph A above shall be the difference between the system development charges paid on the original scope of the project and the system development charges which would be paid on the reduced scope of the project.
- C. The refund granted shall be paid from the Improvement Fund(s) which received the original system development charge payment. If such Improvement Fund(s) do not have sufficient funds or sufficient appropriation authority to pay the refund, then the refund shall be paid from the General Fund.

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 system, water system, storm sewer system, or transportation system of the City unless the appropriate system development charge has been paid or payment has been secured as provided in this Code.

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