

ROSEBURG URBAN SANITARY AUTHORITY
DOUGLAS COUNTY, OREGON

ORDINANCE NO. 97-4

AN ORDINANCE ESTABLISHING AND IMPLEMENTING POLICIES AND PROCEDURES FOR SYSTEM DEVELOPMENT CHARGES TO EQUITABLY SPREAD THE COST OF ESSENTIAL CAPITAL IMPROVEMENTS TO NEW DEVELOPMENT AND ESTABLISHING DEDICATED ACCOUNTS FOR SYSTEMS DEVELOPMENT CHARGE REVENUES; AND DECLARING AN EMERGENCY.

WHEREAS, the Roseburg Urban Sanitary Authority finds that:

(1) The Oregon Legislature through the enactment of ORS 223.297 to 223.314 has authorized local governments in Oregon to utilize system development charges on new development in order to provide funding for a portion of the costs of needed capital improvements necessitated by new development; and

(2) The imposition of system development charges is one of the preferred methods of ensuring that new development bears a proportionate share of the cost of providing essential capital facilities and improvements necessary to accommodate such development; and

(3) The system development charges established under this ordinance are derived from, and based upon, and do not exceed the costs of maintaining the existing level of service necessitated by the new developments for which the charges are levied; and,

(4) Qualified public improvements identified in the plan(s) adopted pursuant to this ordinance shall guide the expenditure of system development charge revenues.

NOW, THEREFORE, the Roseburg Urban Sanitary Authority does ORDAIN as follows:

Section 1. Purpose. The purpose of system development charges is to impose a portion of the cost of capital improvements upon those developments that create the need for or increase the demands on capital improvements.

Section 2. Scope. System development charges imposed under this ordinance are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development.

Section 3. Definitions. For purposes of this ordinance, the following mean:

Authority. Roseburg Urban Sanitary Authority.

Board. The Board of Directors of the Authority.

Capital improvements. Facilities or assets used for wastewater collection, transmission, treatment and disposal.

Development. Conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, dividing land into two or more parcels (including partitions and subdivisions), and creating or terminating a right of access.

Improvement fee. A fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to this ordinance.

Land area. The area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

Owner. The owner or owners of record title or the purchaser or purchasers under a recorded sales agreement and other persons having an interest of record in the described real property.

Parcel of land. A lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.

Permittee. The person to whom a building permit, development permit, a permit or plan approval to connect to the sewer or water system, or right-of-way access permit is issued.

Qualified public improvements. A capital improvement that is:

(1) Required as a condition of residential development approval;

(2) Identified in a plan adopted pursuant to this ordinance; and either

(3) Not located on or contiguous to a parcel of land that is the subject of the development approval; or

(4) 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.

(5) For purposes of this definition, contiguous means in a public way which abuts the parcel.

Reimbursement fee. A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to this ordinance.

System development charge. A reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. "System development charge" includes that portion of a sewer system connection charge that is greater than the amount necessary to reimburse the Authority for its average cost of inspecting and installing connections with sewer facilities. "System development charge" does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision.

Section 4. System Development Charge Established.

(1) System development charges shall be established and may be revised by resolution of the board. The resolution shall set the amount of the charge, the type or permit to which the charge applies, and, if the charge applies to a geographic area smaller than the entire Authority, the geographic area subject to the charge.

(2) Unless otherwise exempted by the provisions of this ordinance or other local or state law, a system development charge is hereby imposed upon all development within the Authority, upon the act of making a connection to the Authority sewer system within the Authority, and upon all development outside the boundary of the Authority that connects to or otherwise uses the sewer facilities of the Authority.

Section 5. Methodology.

(1) The methodology used to establish the reimbursement fee shall consider the cost and/or value of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, rate-making principals employed to finance publicly owned capital improvements, and other relevant factors identified by the board. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost and/or value of then-existing facilities.

(2) 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.

(3) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be contained in a resolution adopted by the board.

Section 6. Authorized Expenditures.

(1) Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

(2) (a) Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of future debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees must be related to demands created by

current or projected development.

(b) A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the Authority pursuant to this ordinance.

(3) Notwithstanding subsections (1) and (2) of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this ordinance, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures.

Section 7. Expenditure Restrictions.

(1) 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.

(2) System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements.

Section 8. Improvement Plan. The board shall adopt a plan that:

(1) Lists the capital improvements that may be funded with improvement fee revenues;

(2) Lists the estimated cost and time of construction of each improvement; and

(3) Describes the process for modifying the plan.

In adopting this plan, the board may incorporate by reference all

or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section.

Section 9. Collection of Charge.

(1) The system development charge is payable upon issuance of:

- (a) A building permit;
- (b) A development permit;
- (c) A development permit for development not requiring the issuance of a building permit;
- (d) A permit or approval to connect to the water system;
- (e) A permit or approval to connect to the sewer system;

or

- (f) A right-of-way access permit.

(2) If no building, development, or connection permit is required, the system development charge is payable at the time the usage of the capital improvement is increased.

(3) If development is commenced or connection is made to the sewer system without an appropriate permit or approval, the system development charge is payable immediately.

(4) The manager of the authority shall collect the applicable system development charge from the permittee when a permit that allows building or development of a parcel is issued or when a connection to the sewer system of the Authority is made.

(5) The manager of the authority shall not issue such permit or allow such connection until the charge has been paid in full, or until provision for installment payments has been made pursuant to

this ordinance, or unless an exemption is granted pursuant to this ordinance.

Section 10. Installment Payment.

(1) When a system development charge of \$25 or more is due and collectible, the owner of the parcel of land subject to the development charge may apply for payment in 20 semi-annual installments, to include interest on the unpaid balance, in accordance with ORS 223.208.

(2) The manager of the authority shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

(3) An applicant for installment payments shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the interest of the applicant is adequate to secure payment of the lien.

(4) The manager of the authority shall keep records of the amount of the system development charge, the dates on which the payments are due, the name of the owner, and the description of the parcel.

(5) The manager of the authority shall docket the lien in the lien docket. From that time the Authority shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the board. The lien shall be enforceable in the manner provided in ORS Chapter 223.

Section 11. Exemptions.

(1) Structures and uses established and existing and connected to the sewer system on or before the effective date of this ordinance are exempt from the system development charge to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date.

(2) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the system development charge.

(3) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the public improvement facility are exempt from all portions of the system development charge.

(4) A project financed by Authority revenues is exempt from all portions of the system development charge.

Section 12. Credits.

(1) When development occurs that is subject to a system development charge, the system development charge for the existing use, if applicable, shall be calculated and if it is less than the system development charge for the use that will result from the development, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge. If the change in the use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required. No

refund or credit shall be given unless provided for by another subsection of this section.

(2) A credit shall be given to the permittee for the cost of a qualified public improvement upon acceptance by the Authority of the public improvement. The credit shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee and shall only be for the improvement fee charged for the type of improvement being constructed.

(3) If a qualified public improvement is located in whole or in part on or contiguous to the property that is the subject of development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the Authority'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 this subsection. The request for credit shall be filed in writing no later than 60 days after acceptance of the improvement by the Authority.

(4) When the construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.

(5) When establishing a methodology for a system development charge, the Authority may provide for a credit against the improvement fee, the reimbursement fee, or both, for capital improvements constructed as part of the development which reduce the development's demand upon existing capital improvements and/or the need for future capital improvements, or a credit based upon any other rationale the board finds reasonable.

(6) Credits shall not be transferable from one development to another.

(7) Credits shall not be transferable from one type of system development charge to another.

(8) Credits shall be used within 10 years from the date the credit is given.

Section 13. Notice.

(1) The Authority 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. The methodology supporting the adoption or amendment shall be available at least 30 days prior to the first hearing to adopt or amend a system development charge. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the Authority.

(2) The Authority may periodically delete names from the list, but at least 30 days prior to removing a name from the list, the Authority 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.

Section 14. Segregation and Use of Revenue.

(1) All funds derived from a particular type of system development charge are to be segregated by accounting practices from all other funds of the Authority. That portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in this ordinance.

(2) The manager of the Authority shall provide the board with an annual accounting, based on the Authority's fiscal year, for system development charges showing the total amount of system development charge revenues collected for each type of facility and the projects funded from each account.

Section 15. Appeal Procedure.

(1) A person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or the expenditure to the board by filing a written request with the manager of the authority describing with particularity the decision of the manager of the authority and the expenditure from which the person appeals. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

(2) Appeals of any other decision required or permitted to be made by the manager of the authority under this ordinance must be filed within 10 days of the date of the decision.

(3) After providing notice to the appellant, the board shall

determine whether the manager of the authority's decision or the expenditure is in accordance with this ordinance and the provisions of ORS 223.297 to 223.314 and may affirm, modify, or overrule the decisions. If the board determines that there has been an improper expenditure of system development charge revenues, the board shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent. The decision of the board shall be reviewed only as provided in ORS 34.010 to 34.100, and not otherwise.

(4) A legal action challenging the methodology adopted by the board pursuant to this ordinance shall not be filed later than 60 days after the adoption. A person shall contest the methodology used for calculating a system development charge only as provided in ORS 34.010 to ORS 34.100, and not otherwise.

Section 16. Prohibited Connection. No person may connect to the sewer system of the Authority unless the appropriate system development charge has been paid or the lien or installment payment method has been applied for and approved.

Section 17. Penalty. Violation of this ordinance is punishable by a fine not to exceed \$250.00. Each day a violation continues shall be a separate violation punishable by a separate fine for each day.

Section 18. Construction. The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of this ordinance.

Section 19. Severability. The invalidity of a section or subsection of this ordinance shall not affect the validity of the remaining sections or subsections.

Section 20. Classification.

The board determines that any fees, rates or charges imposed by this ordinance or by resolution pursuant to this ordinance are not taxes subject to the limitations of Article XI, Section 11 or 11(b) of the Oregon Constitution.

Section 21. Effective Date. Because of the need to have new development bear its equitable share of the cost for public facilities, the matters contained herein concern the public health, welfare and safety, and in order to allow its orderly implementation an emergency is hereby declare to exist and this Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was duly adopted by the Board of Directors of the Roseburg Urban Sanitary Authority, on this 10th day of December, 1997.

ROSEBURG URBAN SANITARY AUTHORITY

S. William New

Chairman, Board of Directors

COUNTERSIGNED:

[Signature]
Manager

ATTEST

[Signature]
Recording Secretary

EXHIBIT A

Table 1
Roseburg Urban Sanitary Authority
SDC - Reimbursement Fee Calculation

Item	Total Plant
Replacement Costs New (a)	\$32,000,000
Current System Design Capacity (mgd)	7.9
Net Investment per mgd	\$4,050,633
Net Investment per gpd	\$4.05
Average Day Sewer Demand per EDU (gpd)	400
Reimbursement SDC per EDU	\$1,620

(a) Assumes 7.9 mgd capacity at \$4.05 million per mgd.

Affidavit of Publication
The News-Review

Roseburg, Oregon

ISSUED DAILY EXCEPT SATURDAY

STATE OF OREGON }
COUNTY OF DOUGLAS } ss.

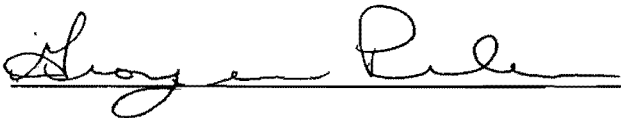
I, GEORGENE PEELER, being first duly sworn, depose and say that I am the Office Manager, of The News-Review, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Roseburg in the aforesaid county and state; that the _____

PUBLIC HEARING

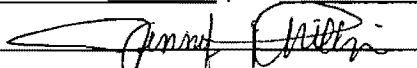
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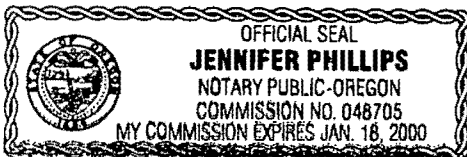
a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 1 successive and consecutive weeks in the following issues: December 3, 1997

The fee actually charged by such newspaper for such publication is \$ 11.38.



Subscribed and sworn to before me this 3rd day of
December, 19 97


Notary Public of Oregon



PUBLIC NOTICE

Notice is hereby given that, along with its Agenda of regular business, the Roseburg Urban Sanitary Authority will hold a Public Hearing on December 10, 1997, at 4:00 p.m., pursuant to ORS 223.297 to ORS 223.314 for the purpose of considering a System Development Charges Ordinance. The hearing will be held at the Roseburg Urban Sanitary Authority's Administrative Offices Board Room 1297 N.E. Grandview Drive, Roseburg, OR 97470. Copies of the Ordinance are available at the Administrative Offices of the Roseburg Urban Sanitary Authority, 1297 N.E. Grandview Drive, Roseburg, OR 97470. #26255; Pub Date: December 3, 1997.

Affidavit of Publication
The News-Review

Roseburg, Oregon

ISSUED DAILY EXCEPT SATURDAY

STATE OF OREGON }
COUNTY OF DOUGLAS } ss.

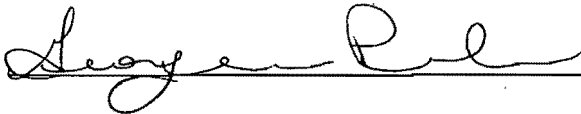
I, GEORGENE PEELER, being first duly sworn, depose and say that I am the Office Manager, of The News-Review, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Roseburg in the aforesaid county and state; that the _____

ORDINANCE #97-4 & RESOLUTION #97-5

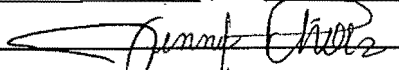
#26290

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 1 successive and consecutive weeks in the following issues: December 19, 1997

The fee actually charged by such newspaper for such publication is \$ 6.50



Subscribed and sworn to before me this 19th day of
December, 19 97


Notary Public of Oregon



NOTICE

NOTICE is hereby given by the Roseburg Urban Sanitary Authority, an Oregon Municipal Corporation, that System Development Fees adopted and effective December 10, 1997, by Ordinance #97-4 and Resolution #97-5, are not subject to limits of Section 11b, Article XI of the Oregon Constitution.
#26290: Pub. Date: December 19, 1997.

Affidavit of Publication
The News-Review

Roseburg, Oregon

ISSUED DAILY EXCEPT SATURDAY

STATE OF OREGON }
COUNTY OF DOUGLAS } ss.

I, GEORGENE PEELER, being first duly sworn, depose and say that I am the Office Manager, of The News-Review, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Roseburg in the aforesaid county and state; that the _____

ORDINANCE #97-4

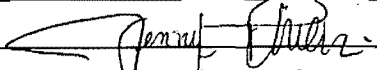
#26291

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 1 successive and consecutive weeks in the following issues: December 22, 1997

The fee actually charged by such newspaper for such publication is \$ 14.63



Subscribed and sworn to before me this 22nd day of December, 19 97


Notary Public of Oregon



NOTICE

NOTICE is hereby given that on December 10, 1997, the Board of Directors of the Roseburg Urban Sanitary Authority adopted Ordinance #97-4, an Ordinance establishing and implementing policies and procedures for System Development Charges and procedures for System Development Charges to equitably spread the cost of essential capital improvements to new developments, and establishing dedicated accounts for System Development Charge revenue. The effective date of Ordinance #97-4 is December 10, 1997. A copy is on file at the Roseburg Urban Sanitary Authority's Administrative Office, 1297 N.E. Grandview, Roseburg, Oregon, and at the Office of the Douglas County Clerk, County of Douglas, Roseburg, Oregon; available for public inspection. #26291. Pub. Date: December 22, 1997.