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ORDINANCE NO. 2019-01

ROSEBURG URBAN SANITARY AUTHORITY

AN ORDINANCE TO PROVIDE AUTHORIZATION FOR SYSTEM DEVELOPMENT CHARGES FOR CAPITAL IMPROVEMENTS PURSUANT TO ORS 223.297 – 223.314 FOR THE PURPOSE OF CREATING A SOURCE OF FUNDING FOR EXISTING SYSTEM CAPACITY AND/OR THE INSTALLATION, CONSTRUCTION AND EXTENSION OF FUTURE CAPITAL IMPROVEMENTS, AND REPEALING ORDINANCE #2005-01, DATED OCTOBER 19, 2005.

Section 1. Purpose. The purpose of the system development charge (“SDC”) is to impose a portion of the cost of capital improvements for wastewater collection and treatment upon those developments and redevelopments that create the need for or increase the demands on capital improvements.

Section 2. Scope. The System Development Charges imposed herein 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.

Definitions. For purposes of this Ordinance, the following definitions shall apply:

Capital Improvement. Facilities or assets used for:

- (a) Sewage and 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, or 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 the provisions of 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. Owner means the owner of the title to real property or the contract purchaser of real property of record as shown on the last available complete assessment roll in the office of the county assessor.

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 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, or Right-of-Way Access Permit is issued.

Qualified Public Improvement. A capital improvement that is:

- (a) Required as a condition of development approval;
- (b) Identified in the System Development Charge Fund Project Plan; and
- (c) Not located on or continuous to a parcel of land that is the subject of the development approval.

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

System Development Charge (SDC). 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 the development permit or building permit, or at the time of connection to the capital improvement. "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, or the cost of complying with the requirements or conditions imposed by a land use decision.

Section 3. System Development Charge Imposed; Method of Establishment Created.

- (a) Unless exempted pursuant to Section 8 herein, a System Development Charge is hereby imposed upon all development within the service area of the Roseburg Urban Sanitary Authority, also referred to as the Authority.
- (b) System Development Charges shall be established and may be revised by Resolution of the Roseburg Urban Sanitary Authority's Board of Directors (Sanitary Authority's Board) in so far as those revisions do not constitute a revision to the methodology for calculating the SDC. The Resolution shall set the amount of the charge, the type of permit to which the charge applies, and, if the charge applies to a geographic area smaller than the entire Authority, the geographic areas subject to the charge.

Section 4. Methodology.

- (a) The methodology used to establish the reimbursement fee shall consider the cost of the then-existing facilities, prior contributions by then-existing system users, the value of unused capacity, rate-making principles employed to

finance publicly owned capital improvements, and other relevant factors identified by the Sanitary Authority's Board. The methodology shall promote the objective that future systems users shall contribute not 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 other relevant factors identified by the Sanitary Authority's Board.
- (c) The methodology used to establish the improvement fee, or the reimbursement fee, or both, shall be adopted by Resolution.

Section 5. Authorized Expenditure.

- (a) 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.
- (b) Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for such 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 improvements funded by improvement fees must be related to demands created by future development. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the Capital Plan adopted by the Authority.
- (c) System Development Charge revenues may be expended on the direct cost 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 funds.

Section 6. Project Plan.

- (a) The Authority shall adopt by Resolution the Capital Plan. This Plan:
 - 1. Defines the amount of current or under construction capacity available for new development and the cost of the facilities comprising this capacity;
 - 2. Lists the capital improvements that may be funded with improvement fee revenues; and

3. Lists the estimated cost, SDC eligible allocation of project costs and estimated time of construction of each improvement.
- (b) In adopting this plan, the Authority 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. The Sanitary Authority's Board may modify this Project Plan at any time through the adoption of an appropriate Resolution.
 - (c) The capital projects listed in the plan shall be adjusted for inflation annually and the index used shall be the Engineering News Record.

Section 7. Collection of Charge.

- (a) Except as provided in Sections 8, 9 or 10 the System Development Charge is payable upon issuance of:
 1. A Building Permit;
 2. A development permit for development not requiring the issuance of Building Permit;
 3. Approval to connect or increase the usage of the system or systems provided by the Authority; or
 4. A right-of-way access permit.
- (b) The Resolution which sets the amount of the charge shall designate the permit or systems to which the charge applies.
- (c) If development is commenced or connection is made to the systems provided by the Authority without an appropriate permit, the System Development Charge is immediately payable upon the earliest date that a permit was required.
- (d) The Authority's General Manager or his/her designee shall collect the applicable System Development Charge from the permittee or system user.
- (e) Except as provided in Sections 8, 9 and 10 the Authority's General Manager or his/her designee shall not issue such permit or allow connection or increased usage of the system(s) until the charge has been paid in full.
- (f) All moneys collected through the System Development Charge shall be retained in a separate fund and segregated by type of System Development Charge and by reimbursement vs. improvement fees.

Section 8. Exemptions.

- (a) Structures and uses established and existing on or before the effective date of the Resolution are exempt from all portions of a Systems Development Charge.
- (b) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the Authority's building code, are exempt from all portions of the System Development Charge.
- (c) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of a Capital Improvement are exempt from all portions of the System Development Charge.

Section 9. Installment Payments.

- (a) 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 of the Systems Development Charge to include interest on the unpaid balance, in accordance with ORS 223.208.
- (b) The General 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.
- (c) An applicant for installment payments shall have the burden of demonstrating the applicant's qualification as an owner and that the interest of the applicant is adequate to secure payment of the lien.
- (d) Whether the owner elects to pay in less than 10 years or elects to pay in not less than 10 years nor more than 30 years, the General Manager shall determine the number of years of the installment payments and other terms of repayment which shall comply with the parameters of the owner's election.
- (e) The General 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.
- (f) The General 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 by Oregon law.

Section 10. Urban Renewal.

- (a) A Systems Development Charge may be paid pursuant to an Intergovernmental Agreement between the Authority and the Roseburg Urban Development Authority wherein the Roseburg Urban Development Authority assumes liability for System Development Charges and agrees to pay such charges in a period of 10 years or less.

Section 11. Credits.

- (a) A permittee is eligible for credit against the System Development Charge for constructing a qualified Capital Improvement. A qualified Capital Improvement means one that meets all of the following criteria:
 - 1. Is required as a condition of development approval by the Sanitary Authority's Board;
 - 2. Is identified in the adopted Capital Plan; and
 - 3. (i) Is not located within or contiguous to the property or parcel that is subject to development approval; or
 - (ii) Is not 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.
 - 4. This credit shall be only for the Improvement Fee charged for the type of improvement being constructed. Credit under this section may be granted only for the cost of that portion of improvement that exceeds the facility size or capacity needed to serve the development project.
- (b) Applying the adopted methodology, the Authority may grant a credit against the improvement charge for capital facilities provided as part of the development that reduces the development's demand upon existing Capital Improvements, or the need for further Capital Improvements, or that would otherwise have to be constructed at the Authority's expense under the then existing Authority's policies.
- (c) 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.

- (d) All credit requests must be in writing and filed with the Authority before the issuance of a Building Permit. Improvement acceptance shall be in accordance with the usual and customary practices, procedures, and standards of the Roseburg Urban Sanitary Authority. The amount of any credit shall be determined by the Authority and based upon the subject improvement construction contract documents, or other appropriate information, provided by the applicant for the credit. Upon a finding by the Authority that the contract amounts exceed the prevailing market rate for a similar project, the credit shall be based upon market rates. The Authority shall provide the applicant with a credit on a form provided by the Authority. The credit shall state the actual dollar amount that may be applied against any System Development Charge imposed against the subject property. The applicant has the burden of demonstrating qualification for a credit.
- (e) Credits shall be apportioned against the property which was subject to the requirements to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots or parcels constituting the property shall be proportionate to the anticipated public facility service requirements generated by the respective lots or parcels. Upon written application to the Authority; however, credit shall be reapportioned from any lot or parcel to any other lot or parcel within the confines of the property originally eligible for the credit. Reapportionment shall be noted on the original credit form retained by the Authority.
- (f) Any credits are assignable; however, they shall apply only to that property subject to the original condition for land use approval upon which the credit is based, or any portioned or subdivided parcel or lots of such property to which the credit has been apportioned. Credits shall only apply against System Development Charges, are limited to the amount of the fee attributable to the development of the specific lot or parcel for which the credit is sought and shall not be a basis for any refund.
- (g) Any credit request must be submitted before the issuance of a Building Permit. The applicant is responsible for presentation of any credit and no credit shall be considered after issuance of a Building Permit.
- (h) Credits shall be used by the applicant within ten (10) years of their issuance by the Authority.

Notification/Appeals.

- (a) The Authority shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of the System Development Charge methodology. These persons shall be notified in writing of any such proposed changes at least (90) ninety days prior to the first hearing to adopt or

amend such methodology(ies). This methodology shall be available at least (60) sixty days prior to the public hearing. No challenge to the System Development Charge methodology shall be accepted after (60) sixty days following the final adoption by the Authority.

Section 12. Annual Accounting.


- (a) The Authority shall provide an annual accounting for System Development Charges showing the total amount of System Development Charges collected for each system, along with a list of projects funded in whole or in part through System Development Charges.

Section 13. Repeal.

- (a) This Ordinance repeals Ordinance # 2005-01, dated October 19, 2005.


The foregoing Ordinance was duly adopted by the Board of Directors of the Roseburg Urban Sanitary on this 10 day of July 2019.

ATTESTED:



James V. Baird, General Manager

ROSEBURG URBAN SANITARY
AUTHORITY



John Dunn, Board Chair