

Chapter 13.24

SYSTEM DEVELOPMENT CHARGES

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13.24.010 Purpose. The purposes of this chapter are as follows:

A. To establish a methodology to determine system development charges (SDCs).

B. To establish system development charges to impose a portion of the cost of capital improvements upon those developments that create the need for, or increase the demands on such capital improvements. (Ord. 724 §1, 2002; Ord. 584 §1, 1992)

13.24.020 Definitions. For purposes of this chapter, and the resolution provided for by Section 13.24.030, the following definitions shall apply:

"Capital improvement" means facilities or assets used for the following:

1. Water supply, treatment and distribution;
2. Wastewater collection, transmission, treatment and disposal;
3. Drainage and flood control;
4. Transportation; or
5. Parks and recreation.

"Development" means 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" means a fee for costs associated with capital improvements to be constructed after the date the fee is

adopted.

"Land area" means 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.

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"Owner" means the owner or owners of record title or the purchaser or purchasers of a recorded sales agreement, and other persons having an interest of record, other than a security interest, in the described real property.

"Parcel of land" means 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 of the city.

"Qualified public improvements" means a capital improvement that is required as a condition of development approval, identified in the plan adopted pursuant to ORS 223.309 and either:

1. Is not located on or contiguous to property that is the subject of development approval; or
2. Is 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.

"Reimbursement fee" means a fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted.

"System development charge" means 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 hookup to the capital improvement. System development charge includes that portion of a charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections. System development charge does not include fees assessed or collected as part of a local improvement district or charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision. (Ord. 724 §1, 2002; Ord. 584 §2, 1992)

13.24.030 System development charges. A. A system development charge is imposed upon the development of land. Except as provided in Section 13.24.100, a system development charge is also imposed upon the expansion or any change of use of any existing structure or property within the city which increases the capacity demand on capital improvements. The

charge shall be paid by the applicant or other person responsible for the development, and shall be the responsibility of the property owner and, if not paid in a timely fashion, by such applicant or other responsible person.

B. System development charges shall be established and may be revised from time to time by resolution of the council unless otherwise exempted by the provisions of this chapter or other ordinance or state law.

C. The system development charge imposed by this chapter is separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development. (Ord. 724 §1, 2002; Ord. 584 §3, 1992)

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13.24.040 System development charge methodology. A. The methodology used to establish the reimbursement fee portion of the system development charge shall take into account the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, generally accepted rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by state law and the council. 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 portion of the system development charge shall take into account the cost of projected capital improvements, and other relevant factors identified by state law and the council, needed to increase the capacity of the systems to which the fee is related.

C. The actual methodology used to establish the improvement fee and the reimbursement fee shall be contained in a resolution adopted by the council. (Ord. 724 §1, 2002; Ord. 584 §4, 1992)

13.24.050 Authorized expenditures. 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 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 shall be related to

demands created by development. 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 city pursuant to Section 13.24.070.

C. Notwithstanding subsections A and B of this section, system development charge revenues may also be expended on the direct costs of complying with the provisions of this chapter, including, but not limited to, the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures. (Ord. 724 §1, 2002; Ord. 584 §5, 1992)

13.24.060 Expenditure restrictions. A. 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 the other capital improvements.

B. System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements. (Ord. 584 §6, 1992)

13.24.070 Improvement plan. The council shall adopt a plan that:

A. Lists the capital improvements that may be funded with improvement fee revenues;

B. Lists the estimated cost and time of construction of each improvement; and

C. Describes the process for modifying the plan. (Ord. 584 §7, 1992)

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13.24.080 Collection of system development charges.

A. System development charges are payable upon the earlier of issuance of:

1. A building permit;
2. A permit to connect to the water system;
3. A permit to connect to the sewer system; or
4. A permit for change in land use.

B. If no building or connection permit is required, system development charges are payable at the time the usage of the capital improvement is increased or changed.

C. If development is commenced or connection is made to the water or sewer systems without an appropriate permit, system development charges are immediately payable upon the earliest date that a permit was required.

D. The city manager shall collect the applicable system development charges when a permit that allows building or development of a parcel is issued or when a connection to the water or sewer system of the city is made.

E. The city shall not issue such permit or allow such connection until the charges have been paid in full or unless an exemption is granted pursuant to Section 13.24.110. (Ord. 584

§8, 1992)

13.24.090 Delinquent charges--Hearings. A. When, for any reason, a system development charge has not been paid in a timely fashion, the city manager shall provide a written report to the council including the amount of the uncollected charge, the description of the real property to which the charge is attributable, the date upon which the charge was due, and the name of the owner.

B. The city council shall schedule a public hearing on the matter and direct that notice of the hearing be given to each owner involved, together with a copy of the city manager's report concerning the unpaid charge. Notice of the hearing shall be given either personally or by certified mail, return receipt requested, or by both personal and mailed notice, and by posting notice on the parcel at least ten days before the date set for the hearing.

C. At the hearing, the council may accept, reject, or modify the determination of the city manager as set forth in the report. If the council finds that a system development charge is unpaid and uncollected, it shall direct the city recorder-treasurer to docket the unpaid and uncollected system development charge in the city lien docket. Upon completion of the docketing, the city shall have a lien against the described land for the full amount of the unpaid fee or charge, together with interest at the rate of ten percent per annum and the city's actual cost of serving notice of the hearing on the owners. The lien shall be enforceable in the manner provided in ORS Chapter 223. (Ord. 724 §1, 2002; Ord. 584 §9, 1992)

13.24.100 Exemptions. A. 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.

B. 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.

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C. A project financed by city revenues is exempt from all portions of the system development charge. (Ord. 584 §10, 1992)

13.24.110 Credit. A. A credit against an improvement fee may be given for the cost of a qualified public improvement associated with a development. If a qualified public improvement is located partially on and partially off the parcel that is the subject of the development approval, the credit shall be given only for the cost of the portion of the improvement not located on or wholly contiguous to the property, except that credit may

be given for "upsizing" of facilities as described in Section 13.24.020. The credit provided for by this subsection shall be only for the improvement fee charged for the type of improvement being constructed and shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee. No refund shall be made on account of such credit.

B. A change in use results whenever a building permit is issued to expand an existing structure or construct a new structure on a parcel of land which had an established use of all facilities upon the effective date of the ordinance codified in this chapter. When such a change of use occurs, a systems development charge is imposed, but credit shall be given for all systems charge portions of the computed systems development charge in an amount equal to what would otherwise be the charge for the existing structure and use. The credit so computed shall not exceed the calculated systems development charge. No refund shall be made on account of such credit.

C. Credit shall not be transferable from one development to another, but may be transferred from one phase of a development to another phase of the same development. Credits shall be used within a period of ten years from the date the credit is given.

D. Credit shall not be transferable from one type of capital improvement to another. (Ord. 724 §1, 2002; Ord. 584 §11, 1992)

13.24.120 Segregation and use of revenue. A. All funds derived from a particular type of system development charge are to be segregated by accounting practices from all other funds of the city. That portion of a 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 Section 13.24.050.

B. The city manager shall provide the city council with an annual accounting, based on the city'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. (Ord. 584 §12, 1992)

13.24.130 Appeal procedure. A. A person challenging the propriety of a decision to expend system development charges or an expenditure of system development charge revenues may appeal the decision or the expenditure to the city council by filing a written request with the city recorder-treasurer describing with particularity the decision being appealed and the expenditure from which the person appeals. An appeal of an expenditure must be filed within one year of the date of the alleged improper expenditure.

B. Appeals of any other decision required or permitted to be made under this chapter must be filed within fifteen days of the decision. (Ord. 584 §13, 1992)