

## CHAPTER 41. – SYSTEM DEVELOPMENT FEE CHARGES

Sec. 41.095. - Title and purpose.

This chapter shall be known and may be cited as the "~~Systems~~ System Development Charge Ordinance of the City of Salem." The purpose of this charge or fee is to create a source of funds to assist in paying for capital improvements.

Sec. 41.097. - Scope.

The ~~systems~~-system development charge 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. A ~~systems~~ system development charge is to be considered in the nature of a charge for service rendered, a service hookup charge, or a charge for services to be rendered.

Sec. 41.110. - Development charge imposed.

- (a) ~~Systems~~ System development charges are hereby imposed upon all development within the City and on development outside the City where there is a connection to or use of a City capital improvement for which a methodology has been or is hereinafter adopted, except where development is exempt under the provisions of SRC 41.150. The person engaging in the activity for which an SDC is imposed shall pay to the City each applicable ~~systems~~-system development charge at the time established under SRC 41.140.
- (b) Additional system development charges shall be payable if development occurs, as defined in SRC 41.100(c)(2), and at the time specified in SRC 41.140. The SDC collected shall include a credit for pre-existing uses on the property. In such case, each SDC collected shall be the difference between the current SDC rate set by Council resolution for the new demand and the current SDC rate for the previous demand.
- (c) ~~Systems~~-System development charges, and modifications thereof, shall be established by resolution of the Council.

Sec. 41.120. - Expenditure of funds from system development charge.

The revenues received from the ~~systems~~-system development charges shall be budgeted and expended as provided by state law.

- (a) Reimbursement fees shall be spent only for capital improvements associated with the system 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 associated with the system for which the fee is assessed, 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 the need for increased capacity to provide service for future users.

- (c) Any capital improvement being funded wholly or in part with system development charge revenues must be included in the plan and list adopted by Council pursuant to ORS 223.309.
- (d) Notwithstanding subsections (a) and (b) of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this chapter, including the costs of developing system development charge methodologies and providing an annual accounting of system development expenditures.
- (e) The ~~systems~~-system development charges collected for extraterritorial service shall be expended according to the terms and conditions of intergovernmental agreements establishing such service.

Sec. 41.140. - Time of payment; refunds.

- (a) Except as may be provided by intergovernmental agreement, the SDC imposed under this chapter shall be due and payable to the Finance Officer or his or her designee upon the earliest occurrence of the issuance of:
  - (1) A building permit;
  - (2) A development permit for development not requiring the issuance of a building permit;
  - (3) A permit or approval to connect to the water system;
  - (4) A permit or approval to connect to the stormwater or wastewater system;
  - (5) A right-of-way access permit;
  - (6) If no building permit, development permit, connection permit or approval, or right-of-way access permit is required, the SDC is payable at the time the usage of the capital improvement is increased based on changes in the use of the property unrelated to seasonal or ordinary fluctuations in usage; or
  - (7) If development is commenced or connection is made to the water, wastewater or stormwater systems without a required permit or approval, the SDC is immediately payable and deemed due upon the earliest date the permit or approval was required.
- (b) No permit shall be issued or any connection to a capital improvement allowed until the SDC has been paid in full, or until provision for installment payments has been made pursuant to subsection (d) of this section, or unless the improvement is exempt from payment of SDCs under SRC 41.150.
- (c) An SDC shall be refunded upon request of the owner of the land on which the development was permitted if the permit expires or is revoked before the ~~improvement~~ development, or portion thereof, is constructed. If, prior to request for refund, the property is sold or the entity that paid the SDC ceases to exist, by way of dissolution, bankruptcy, or death, then eligibility for refund of the SDC is terminated, and the SDC payment shall be eligible for exemption toward future development pursuant to SRC 41.150(a)(7).
- (d) In lieu of payment being made as required under subsection (a) of this section, the owner of the land on which the improvement will be located may enter into an installment agreement to pay the SDC in semiannual installments, as authorized by ORS 223.208. The obligation to pay the SDC pursuant to an installment agreement shall be secured by a lien against the

property upon which the improvement will be located. The lien shall be entered into the City's lien docket as provided in SRC 21.090 through 21.130, and may be collected in the same manner as allowed by law for collection of assessment liens.

- (e) Transportation system development charge payments made by Salem-Keizer School District 24J for siting of a prefabricated structure defined in OAR 918-674-005 shall be refunded, without interest, upon completion of the requirements of a demolition or removal permit for such structure.

Sec. 41.150. - Exemptions.

- (a) The charge imposed under this chapter shall not apply to the following:
  - (1) Development for which applications for building permits, or mobile home park use permits have been filed prior to the effective date of the resolution initially establishing the methodology for the SDC, providing the information accompanying the application was sufficiently complete to meet the requirements for issuance of a permit for the entire structure.
  - (2) Reconstruction or repair of a building or structure, or portion thereof, which was damaged or destroyed by earthquake, fire, flood, or other natural causes over which the owner had no control, but only if:
    - (A) Such reconstruction or repair is done pursuant to a building permit issued within one year after such damage or destruction; and
    - (B) There is no change in the size of the water meter, development or impervious area.
  - (3) Replacement structures for any forced acquisition wherein a building or structure is acquired for city purposes through eminent domain, provided that:
    - (A) The owner obtains a building permit for the replacement structure within two years of the acquisition; and
    - (B) There is no change in the size of the water meter, development, or impervious area.
  - (4) Any public use or development which is or by agreement will be undertaken by the City, Oregon; the Housing Authority of the City; or the Urban Renewal Agency of the City.
  - (5) Any housing unit that is rental; or lease-to-purchase; ~~or owner-occupied~~ housing located in a housing project of one or more housing units if the project receives federal housing funds administered by the City or is affordable ~~for not less than 30 years~~ to households with an income at or below 80 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development. Eligible rental or lease-to-purchase housing units under this subsection shall be exempted at a rate of 1/30<sup>th</sup> per year of affordability for a time period not less than 5 years and not more than 30 years as elected by the applicant and must also meet the following standards:
    - (A) If new development consists of only part of the uses described in this subsection, only that portion of the development that qualifies under this subsection is eligible for an exemption;

- (B) A deed restriction is recorded that maintains affordability of the property as required in this subsection for not less than ~~30 years~~ the number of years elected for exemption; and
  - (C) In the event that the project or portion of the development subject to this subsection is no longer affordable as required in this subsection, the exemption shall terminate, and the City shall make due and payable all previously exempt portions of the system development charges based on rates in effect on the date of submittal of a complete building permit application, plus accrued interest from the date of issuance of the building permit to the date of the termination of the exemption. The City may collect reinstated system development charges by filing a lien in the City's lien docket, or by recording a lien in the lien records of the applicable county.
- (6) Any owner-occupied housing unit that is affordable to households with an income at or below 80 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development. Eligible owner-occupied housing units under this subsection must also meet the following standards:
- (A) The developer of the housing unit is a non-profit corporation partnering with owner-occupants who do not qualify for a traditional mortgage.
  - (B) The developer shall demonstrate to the satisfaction of the Director that owner-occupants do not have a financial incentive to sell the housing unit for profit within less than 20 years after the housing unit is completed and occupied.
- ~~(76)~~ In the event of a redevelopment, that portion of the development which was pre-existing, as determined from City records or other source acceptable to the Director.
- ~~(87)~~ Development occurring within a development district established pursuant to SRC 200.200 through 200.275.
- ~~(98)~~ Any accessory dwelling unit for which a building permit application was received after June 30, 2019, and before July 1, 2024.
- ~~(109)~~ SDC reimbursement fees shall be reduced by the amount of connection fees, assessments, or deferred assessments paid under SRC chapter 21 prior to the date of connection.
- ~~(1140)~~ A reduction of the Transportation SDC of up to 15 percent is allowed for an approved transportation demand management plan as defined in the City of Salem Public Works Street Design Standards adopted by the Director and on file in the Department of Public Works, prepared by the applicant, approved by the Director and designed to reduce generated trips as set forth in the adopted Transportation SDC Methodology.
- ~~(1244)~~ Other development exempted from the charge according to a methodology adopted pursuant to SRC 41.170.
- (b) The charge imposed under this chapter for water supply service connections that provide water supply and fire sprinkler systems through the same meter shall be the charge for the meter size required to provide water supply as if the fire sprinkler system was not included.

- (c) Nothing in this chapter shall be construed as imposing a charge upon any person when imposition of such charge upon that person would be in violation of the Constitution of the United States or the Constitution of the State.

Sec. 41.160. - System development charge credit.

- (a) A credit against the improvement fee (SDCi) shall be allowed for the construction of a qualified public improvement and may be a true credit, a pass-thru credit, or a combination of the two except as provided in subsection (c) of this section. The credit shall be only for the SDCi for the type of improvement being constructed. The credit shall not exceed the developer's allowable costs as determined by the Director under SRC 41.300 and 41.305. For improvements that are located within or abutting the property subject to development approval, no credit shall be given for the cost of that portion of any water or wastewater line, eight inches or less in diameter, or any storm drainage line 12 inches or less in diameter, nor shall any credit be given for any facility built larger than the above minimums if such capacity is needed by the development itself.
- (b) In addition to the requirements of subsection (a) of this section, a transportation credit shall be given only for the cost of any capital improvement to be partially funded by the Transportation SDC as identified in the adopted Transportation SDC Methodology.
- (c) When a development phase is subject to improvement fees and qualified public improvements associated with the system for which the fee is assessed, the credit shall be issued as a true credit. The amount of the true credit shall be based on the allowable costs as determined by the Director under SRC 41.300 and 41.305. If SDC improvement fees are due and payable prior to determination of allowable costs, SDC improvement fees shall be temporarily reduced by the SDC-eligible portion of the estimated cost of the qualified public improvements as determined by a registered professional engineer, subject to any change in such amount as deemed necessary by the Director.
- (~~e~~) When the construction of a qualified public improvement gives rise to a credit amount greater than the SDC 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~~) Credits shall be used no later than ten years from the date the credit is given.