

Staff Report

File #: 20-425**Version:** 1**Date:** 11/23/2020**Item #:** 6.a.

TO: Mayor and City Council**THROUGH:** Steve Powers, City Manager**FROM:** Peter Fernandez, PE, Public Works Director**SUBJECT:**

Notice of proposed administrative rulemaking to implement collection, reimbursement, and expenditure of System Development Charges.

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Good Governance; Natural Environment Stewardship; Safe, Reliable and Efficient Infrastructure; Strong and Diverse Economy; Welcoming and Livable Community.

ISSUE:

Notice of proposed administrative rulemaking to implement collection, reimbursement, and expenditure of System Development Charges pursuant to *Salem Revised Code* (SRC) Chapter 20J.040(a)(3).

RECOMMENDATION:

Information only.

SUMMARY:

SRC Chapter 20J allows the City Manager or the City Manager's designees to promulgate administrative rules that implement, and are consistent with, the *Salem Revised Code*. Before an administrative rule can be made effective, the public must be given notice of the proposed rule and an opportunity to comment.

City Council must be provided notice of the proposed rule and may initiate review of the proposed rule. This report serves as notice to City Council of the proposed rules concerning implementation, collection, reimbursement, and expenditure of System Development Charges.

FACTS AND FINDINGS:

The specific topics being modified in Administrative Rule 109-200 are as follows:

- 1) The definition of “abutting street” is amended to include only streets fronting the development site, not those within the development site.
- 2) A definition of “direct service” is added to clarify SDC eligibility for sewer and water mains.
- 3) A definition of “internal street” is added to distinguish between internal streets (within the site) and abutting streets (fronting the site).
- 4) The SDC Eligibility Ratio for internal arterial streets is amended from 34 percent to 100 percent minus developer’s share because driveway access from internal streets is generally taken from local streets. Because developments receive limited benefit from internal arterial streets, the SDC Eligibility Ratio is increased to reflect the actual benefit received.
- 5) The SDC Eligibility Ratio for water and sewer mains is modified to remove an ambiguity between the administrative rule and SRC 41.160(a) regarding mains abutting or within the development site.

The authority to promulgate administrative rules is granted under SRC 20J.030. SRC 20J.040 outlines the procedure for adopting an administrative rule. This procedure requires providing notice of the proposed rulemaking to the City Council along with other methods of public notice. Adopting the administrative rule allows interested persons to be included in the rulemaking process and is in the public interest.

City Council has the authority to review a proposed administrative rule. City Council’s review authority is limited to determining whether the proposed rule is within the scope of the code authority, whether the rule is duplicative, or conflicts with, another rule or law, or if the proposed rule is outside of the City Manager’s administrative rulemaking authority.

The public notice for the proposed administrative rule change was posted on November 5, 2020, and all public comments were due by November 23, 2020, at 5:00 p.m. The administrative rule will become effective on November 24, 2020.

BACKGROUND:

Administrative Rule 109-200 implements collection, reimbursement, and expenditure of System Development Charges (SDCs). Since this rule was originally adopted, staff has discovered through administration of the rule that the SDC eligibility ratio for internal arterial streets does not accurately reflect the developer’s share and should be modified.

Robert D. Chandler, PhD, PE
Assistant Public Works Director

Attachments:

1. Notice of Administrative Rule Making 109-200
2. Administrative Rule 109-200