

ORDINANCE NO. 691

AN ORDINANCE AMENDING CHAPTER 13.12 OF THE STAYTON MUNICIPAL CODE RELATIVE TO SYSTEMS DEVELOPMENT CHARGES.

WHEREAS, the 1989 Session of the Oregon Legislature has enacted a new state law relating to System Development Charges; and

WHEREAS, the City of Stayton's System Development Charges used after 1 July 1991 must meet certain requirements incorporated into the state law; and

WHEREAS, the City of Stayton has undertaken a review of its System Development Charges in order to insure its compliance with state law; and

WHEREAS, it is important to the city that costs of growth are equitably and rationally shared by new growth and development activities;

NOW, THEREFORE, the City of Stayton does hereby ordain as follows:

SECTION 1: Section 12 of Title 13, "Systems Development Charge," of the Stayton Municipal Code is hereby amended to read:

SECTIONS

13.12.205	Definitions
13.12.210	Purpose
13.12.215	Scope
13.12.220	System Development Charge Established
13.12.225	Methodology
13.12.230	Compliance with State Law
13.12.235	Collection of Charge
13.12.240	Exemptions
13.12.245	Credits
13.12.250	Appeal Procedures
13.12.255	Prohibited Connection
13.12.260	Enforcement

The following words and phrases, as used in Chapter 13.12 of the Stayton Municipal Code, have the following definitions and meanings:

1. **CAPITAL IMPROVEMENT(S):** Public facilities or assets used for any of the following:
 - a. Water supply, treatment, and distribution;
 - b. Sanitary sewers, including collection, transmission, and treatment;
 - c. Storm sewers, including drainage and flood control;
 - d. Transportation, including but not limited to streets, sidewalks, bike lanes and paths, street lights, traffic signs and signals, street trees, public transportation, vehicle parking, and bridges; or
 - e. Parks and recreation, including but not limited to mini-neighborhood parks, neighborhood parks, community parks, public open spaces and trail systems, buildings, courts, fields, and other like facilities.
2. **DEVELOPMENT:** As used in sections 13.12.210 through 13.12.245, means constructing or enlarging a building or adding facilities or making a physical change in the use of a structure or land which increases the usage of any capital improvements or which will contribute to the need for additional or enlarged capital improvements.
3. **PUBLIC IMPROVEMENT CHARGE:** A fee for costs associated with capital improvements to be constructed after the effective date of this ordinance. This term shall have the same meaning as the term "improvement fee" as used in ORS 223.297 through 223.314.
4. **QUALIFIED PUBLIC IMPROVEMENTS:** A capital improvement that is required as a condition of development approval and is identified in the plan adopted pursuant to subsection 13.12.230.1. However, it does not include improvements sized or established to meet only the demands created by a development.
5. **REIMBURSEMENT FEE:** A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to section 13.12.220.

6. **SYSTEM DEVELOPMENT CHARGE:** A reimbursement fee, a public improvement charge, or a combination thereof, assessed or collected at any of the times specified in section 13.12.235. It shall not include connection or hook-up fees for sanitary sewers, storm drains, or water lines, since such fees are designed by the city only to reimburse the city for the costs for such connections. Nor shall the System Development Charge include costs for capital improvements which by city policy and state statute are paid for by assessments or fees in lieu of assessments for projects of special benefit to a property.

13.12.210 PURPOSE

The purpose of the System Development Charge (SDC) is to impose an equitable share of the public costs of capital improvements upon those developments that create the need for or increase the demands on capital improvements.

13.12.215 SCOPE

The System Development Charge imposed by Chapter 13.12 of the Stayton Municipal Code 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 Development Charge is to be considered in the nature of a charge for services rendered or facilities made available, or a charge for future services to be rendered or facilities to be made available in the future.

13.12.220 SYSTEMS DEVELOPMENT CHARGE ESTABLISHED

1. Unless otherwise exempted by the provisions of this chapter or other local or state law, a Systems Development Charge is hereby imposed upon all development within the city, and all development outside the boundary of the city that connects to or otherwise uses the sanitary sewer system, storm drainage system, or water system of the city. The city administrator is authorized to make interpretations of this section, subject to appeal to the city council.
2. System Development Charges for each type of capital improvement may be created through application of the methodologies described in section 13.12.225 of this code. The amounts of each System Development Charge shall be adopted initially by council resolution. Changes in the amounts shall be adopted by resolution following a public hearing.

METHODOLOGY

1. The methodology used to establish a reimbursement fee shall consider the cost of then-existing facilities, prior constructions by then-existing users, the value of unused capacity, rate-making principles employed to finance publicly-owned capital improvements, and other relevant factors. The methodology shall promote the objective that future systems users shall contribute an equitable share of the cost of then-existing facilities.
2. The methodology used to establish the public improvement charge shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and shall provide for a credit against the public improvement charge for the construction of any qualified public improvement.
3. The methodology shall also provide for a credit as authorized in subsection 13.12.250.
4. Except when authorized in the methodology adopted under subsection 13.12.225.1, the fees required by this code which are 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 are separate from and in addition to the Systems Development Charge and shall not be used as a credit against such charge.
5. The methodologies used to establish the Systems Development Charge shall be adopted by resolution of the city council. The specific Systems Development Charge may be adopted and amended concurrent with the establishment or revision of the Systems Development Charge methodology. The city administrator shall review the methodologies established under this section every three (3) years and shall recommend amendments, if and as needed, to the city council for its action.
6. The formulas and calculations used to compute specific System Development Charges are based upon averages and typical conditions. Whenever the impact of individual developments present special or unique situations such that the calculated fee is grossly disproportionate to the actual impact of the development, alternative fee calculations may be approved or required by the city administrator under administrative procedures prescribed by the city council. All data submitted to support alternate calculations under this provision shall be site specific. Major or unique developments may require special analyses to determine alternatives to the standard methodology.

7. When an appeal is filed challenging the methodology adopted by the city council, the city administrator shall prepare a written report and recommendation within twenty (20) working days of receipt for presentation to the council at its next regular meeting. The council shall, by resolution, approve, modify, or reject the report and recommendation of the city administrator, or it may adopt a revised methodology by resolution, if required. Any legal action contesting the city council's decision in the appeal shall be filed within sixth (60) days of the council's decision.

13.12.230 COMPLIANCE WITH STATE LAW

1. The revenues received from the Systems Development Charges shall be budgeted and expended as provided by state law. Such revenues and expenditures shall be accounted for as required by state law. Their reporting shall be included in the city's annual financial report required by ORS Chapter 294.
2. The capital improvement plan required by state law as the basis for expending the public improvement charge component of Systems Development Charge revenues shall be the Stayton Master Utilities Plan and amendments enacted by the Stayton City Council.

13.12.235 COLLECTION OF CHARGE

1. The Systems Development Charge is payable upon, and as a condition of, issuance of:
 - a. A building or plumbing permit for a development; or
 - b. A permit for a development not requiring the issuance of a building permit; or
 - c. A permit or other authorization to connect to the water or sanitary sewer systems.
2. If development is commenced or connection is made to the water system or the sanitary sewer system without an appropriate permit, the Systems Development Charge is immediately payable upon the earliest date that a permit was required, and it will be unlawful for anyone to continue with the construction or use constituting a development until the charge has been paid or payment secured to the satisfaction of the city administrator.

3. Any and all persons causing a development or making application for the needed permit, or otherwise responsible for the development, are jointly and severally obligated to pay the charge, and the city administrator may collect the said charge from any of them. The city administrator or his/her designee shall not issue any permit or allow connections described in subsection 13.12.235.1 until the charge has been paid in full or until an adequate secured arrangement for its payment has been made, within the limits prescribed by resolution of the city council.
4. A Systems Development Charge shall be paid in cash when due, or in lieu thereof the city administrator may accept the delivery of a written agreement to pay if the written agreement is secured by collateral satisfactory to the city administrator or his/her designee. The collateral may consist of mortgage or trust deeds of real property, or an agreement secured by surety bond issued by a corporation licensed by a state law to give such undertakings, or by cash deposit, letter of credit, or other like security acceptable to the city administrator.
5. A person may apply to pay the Systems Development Charge in installments to the extent provided by state law.

13.12.240 EXEMPTIONS

The following developments are exempt from all of the Systems Development Charges imposed in section 13.12.220:

1. Any development for which a water or sewer Systems Development Charge was paid prior to the date of the adoption of this ordinance.
2. City-owned buildings and facilities.

13.12.245 CREDITS

1. When development occurs that gives rise to a Systems Development Charge under section 13.12.220 of this chapter, the Systems Development Charge for the existing use shall be calculated and if it is less than the System Development Charge for the proposed use, 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 required under section 13.12.220. If the change in use results in the Systems Development Charge for the proposed use being less than the System Development Charge for the existing use, no Systems Development Charge shall be required; however, no refund or credit shall be given.

2. The limitations on the use of credits contained in this subsection shall not apply when credits are otherwise given under Section 13.12.250. A credit shall 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 of land that is the subject of the approval, the credit shall be given only for the cost of the portion of the improvement not attributable wholly to the development. The credit provided for by this subsection shall be only for the public improvement charge charged for the type of improvement being constructed and shall not exceed the public improvement charge even if the cost of the capital improvement exceeds the applicable public improvement charge.
3. Applying the methodology adopted by resolution, the city administrator shall grant a credit against the public improvement charge, the reimbursement fee, or both, for a capital improvement constructed as part of the development that reduces the development's demand upon existing capital improvements or the need for future capital improvements or that would otherwise have to be provided at city expense under then-existing council policies.
4. In situations where the amount of credit exceeds the amount of the System Development Charge, the excess credit is not transferable to another development.
5. Credit shall not be transferable from one type of capital improvement to another.

13.12.250 APPEAL PROCEDURES

1. As used in this section, "working day" means a day when the general offices of the city are open to transact business with the public.
2. A person aggrieved by a decision required or permitted to be made by the city administrator or his/her designee under section 13.12.205 through 13.12.245 or a person challenging the propriety of an expenditure of Systems Development Charge revenues may appeal the decision or expenditure by filing a written request with the city administrator for consideration by the city council. Such appeal shall describe with particularity the decision or the expenditure from which the person appeals and shall comply with subsection 4. of this section.
3. An appeal of an expenditure must be filed within two (2) years of the date of alleged improper expenditure. Appeals of any other decision must be filed within ten (10) working days of the date of the decision.

4. The appeal shall state:
 - a. The name and address of the appellant;
 - b. The nature of the determination being appealed;
 - c. The reason the determination is incorrect; and
 - d. What the correct determination should be.

An appellant who fails to file such a statement within the time permitted waives his/her objections and his/her appeal shall be dismissed.

5. Unless the appellant and the city agree to a longer period, an appeal shall be heard within thirty (30) days of the receipt of the written appeal. At least ten (10) working days prior to the hearing, the city shall mail notice of the time and location thereof to the appellant.
6. The city council shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence he/she deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The city may present written or oral testimony at this same hearing. The rules of evidence as used by courts of law do not apply.
7. The appellant shall carry the burden of proving that the determination being appealed is incorrect and what the correct determination should be.
8. The city council shall render its decision within fifteen (15) days after the hearing date and the decision of the council shall be final. The decision shall be in writing, but written findings shall not be made or required unless the council in its discretion elects to make findings for precedential purposes. Any legal action contesting the council's decision on the appeal shall be filed within sixty (60) days of the council's decision.

13.12.255 PROHIBITED CONNECTION

After the effective date of this chapter, no person may connect any premises for service, or cause the same to be connected, to any sanitary sewer or water system of the city unless the appropriate Systems Development Charge has been paid or payment has been secured as provided in this chapter.

13.12.260

ENFORCEMENT

Any service connected to the city water or sewer system after the effective date of this chapter for which the fee due hereunder has not been paid as required or an adequate secured arrangement for its payment has been made is subject to termination of service under the city's utility disconnect policy.

SECTION 2: DECLARATION OF EMERGENCY

It is hereby adjudged and declared that existing conditions are such that this ordinance amending the Stayton Municipal Code sections relating to Systems Development Charges is necessary to serve the public health, safety, welfare, convenience, and environmental amenities of the City of Stayton and the inhabitants thereof, and this ordinance shall be in full force and effect when executed by the mayor.

PASSED BY THE COMMON COUNCIL of the City of Stayton this 3rd day of July, 1991.

SIGNED BY THE MAYOR this 3rd day of July, 1991.

Willmer Van Vleet 7-3-91 2:30 PM
WILLMER VAN VLEET, Mayor Date

ATTEST David W. Kinney 7-3-91
DAVID W. KINNEY, City Administrator Date

APPROVED AS TO FORM David A. Rhoten JUL 09 1991
DAVID A. RHOTEN, City Attorney Date

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