

ORDINANCE NO. 567

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF SYSTEM DEVELOPMENT CHARGE (SDC) FEES, PROCEDURES FOR COLLECTING AND DISPENSING SDC FEES, AND DECLARING AN EMERGENCY.

THE CITY OF WILLAMINA, OREGON ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE

The purpose of the system development charge is to impose a portion of the cost of capital improvements for water, wastewater, drainage, streets, flood control, and parks and recreation upon those developments that create the need for, or increase the demands on capital improvements.

SECTION 2. SCOPE

The system development charge imposed by this ordinance 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.

SECTION 3. DEFINITIONS

For purposes of this ordinance, the following mean:

- (1) "Capital improvements", means facilities or assets used for:
 - (a) Water supply, treatment and distribution;
 - (b) Wastewater-collection, transmission, treatment and disposal;
 - (c) Drainage and flood control;
 - (d) Transportation; or
 - (e) Parks and recreation.
- (2) "City Administrator" shall mean City Recorder, in the case where the City does not have a City Administrator on staff.
- (3) "Development" means 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 termination of a right of access.

(4) "Improvement fee" means a fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to this ordinance.

(5) "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.

(6) "Owner" means the owner or owners of record title or the purchaser or purchasers under a recorded sales agreement and other persons having an interest of record in the described real property.

(7) "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 ordinance.

(8) "Qualified public improvement" means a capital improvement that is:

(a) Required as a condition of residential development approval;

(b) Identified in the improvement plan adopted pursuant to this ordinance, and

(c) Not located on or contiguous to a parcel of land that is the subject of the residential development approval.

(9) "Reimbursement fee" means a fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to Section 4.

(10) "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 connection to the capital improvement. System development charge includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the City for its average cost of inspecting and installing connections with water and sewer facilities. "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 assessment, or the cost of complying with requirements or conditions imposed by a land use decision.

SECTION 4. SYSTEM DEVELOPMENT CHARGE ESTABLISHED

(1) System development charges shall be established and may be revised by resolution of the Council.

(2) Unless otherwise exempted by the provisions of the ordinance, or other local or state law, a system development charge is imposed upon all persons who develop parcels of land that connect to or which will otherwise use or create a need for the sewer facilities, storm sewers, water facilities, streets, or parks and open spaces of the City.

SECTION 5. METHODOLOGY

(1) The methodology used to establish the reimbursement fee shall consider the cost of then existing facilities, prior contributions by then existing users, the value of unused capacity, rate making principals employed to finance publicly owned capital improvements, and other relevant factors identified by 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.

(2) 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.

(3) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be contained in a resolution adopted by the Council.

SECTION 6. AUTHORIZED EXPENDITURES

(1) 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.

(2) Improvement fees.

(a) Improvement fees shall be spent only on improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness;

(b) A capital improvement being funded wholly, or in part from revenues derived from the improvement fee shall be included in the improvement plan adopted by the City pursuant to this ordinance.

(3) Notwithstanding subsection (1) and (2) of this section, system development charge revenues may be expended on the direct costs 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 expenditures.

SECTION 7. EXPENDITURE RESTRICTIONS

(1) 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 other capital improvements.

(2) System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements.

SECTION 8. IMPROVEMENT PLAN

The Council shall adopt a plan by resolution that:

- (1) Lists the capital improvements that may be funded with improvement fee revenues;
- (2) List the estimated cost and time of construction of each improvement; and
- (3) Describes the process for modifying the plan.

SECTION 9. COLLECTION OF CHARGE

- (1) The system development charge is payable upon issuance of:
 - (a) A building permit;
 - (b) A permit to connect to the water system; or
 - (c) A permit to connect to the sewer system.

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

(3) The City administrator, or his designee, shall collect the applicable system development charge when a permit that allows the building or development of a parcel is issued, or when a connection to the water or sewer system of the City is made.

(4) The City administrator, or his designee, shall not issue such permit or allow such connection until the charge has been paid in full, or until provision for installment payments has been made pursuant to Section 11, or unless an exemption is granted pursuant to Section 12.

SECTION 10. DELINQUENT CHARGES - HEARINGS

(1) When, for any reason, the system development charge has not been paid, the City administrator shall report to the Council 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 person responsible for the payment of the fee.

(2) The City Council shall schedule a public hearing on the matter and direct that notice of the hearing be given to each owner or person responsible for payment of the fee, with a copy of the City administrator'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 (10) days before the date set for the hearing.

(3) At the hearing, the Council may accept, reject, or modify the determination of the City administrator as set forth in the report.

(4) The City recorder shall report to the City administrator the amount of the system development charge, the date on which the payment is due, the name of the owner, and the description of the parcel.

SECTION 11. INSTALLMENT PAYMENT

(1) When a system development charge of twenty-five dollars or more is due and collectible, the owner of the parcel of land subject to the development charge may apply for payment in at least ten semi-annual installments, to include interest on the unpaid balance, in accordance with Oregon Revised Statutes 223.208.

(2) The City recorder 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.

(3) An applicant for installment payment shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the interest of the applicant is adequate to secure payment of the lien.

(4) The City recorder shall report to the City administrator 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.

(5) The City administrator shall docket the lien in the lien docket. From that time, the City 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 resolution of the Council. The lien shall be enforceable in the manner provided in Oregon Revised Statutes Chapter 223.

SECTION 12. EXEMPTIONS, REDUCTIONS AND WAIVERS

(1) Structures and uses established and existing on or before July 1, 1991, are exempt from system development charges imposed by this ordinance, except water and sewer charge, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structure and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this ordinance upon the receipt of a permit to connect to the water or sewer system.

(2) 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.

(3) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the public improvement facility is exempt from all portions of the system development charge.

SECTION 13. CREDITS

(1) A system development charge shall be imposed when a change of use of a parcel or structure occurs, but credit shall be given for the computed system development charge to the extent that prior structures existed and services were established on or before July 1, 1991. The credit so computed shall not exceed the calculated system development charge. No refund shall be made on account of such credit.

(2) A credit shall be given for the cost of a qualified public improvement which is located partially on and partially off the parcel that is the subject of the residential 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. The credit provided for by this subsection shall be only for the improvement fee charges 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.

(3) Credit shall not be transferable from one development to another, except in compliance with standards adopted by the City Council.

(4) Credit shall not be transferable from one type of capital improvement to another.

SECTION 14. SEGREGATION AND USE OF REVENUE

(1) 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 the 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 6.

(2) The City administrator 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.

SECTION 15. APPEAL PROCEDURE

(1) A person challenging the propriety of an expenditure of system development charge revenues may appeal the decision of the expenditure to the City Council by filing a written request with the City administrator describing with particularity the decision and the expenditure from which the person appeals. AN appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

(2) Appeals of any other decision required or permitted to be made by the City administrator under this ordinance must be filed within ten days of the date of the decision.

(3) After providing notice to the appellant, the Council shall determine whether the City administrator's decision or the expenditure is in accordance with this ordinance and the provision of Oregon Revised Statutes 223.297 to 233.314 and may affirm, modify or overrule the decision. If the Council determines that there has been an improper expenditure of system development charge revenues, the Council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

SECTION 16. PROHIBITED CONNECTION

(1) No person may connect to the water or sewer systems of the City, unless the appropriate system development charge has been paid, or the installment payment method has been applied for and approved.

(2) Any person found to be violating any provision of this ordinance shall be served by the City of Willamina with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction. The offender shall, within the period of time stated in such notice, permanently cease all violations. Any person who shall continue any violation beyond the time limit provided for, upon conviction thereof before the Municipal Judge, shall be fined in an amount not to exceed Two Hundred Dollars (\$200.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. Any person violating any of the provision of this ordinance shall become liable to the City of Willamina for any expense, loss or damage occasioned by the City of Willamina by reason of such violation.

SECTION 17. VALIDITY

The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

SECTION 18. EMERGENCY CLAUSE

The Council desires and deems it necessary for the preservation of the health, peace and safety of the City of Willamina, Oregon that this ordinance take effect at once, and therefore, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED BY THE CITY COUNCIL OF THE CITY OF WILLAMINA, OREGON ON THIS 27TH DAY OF OCTOBER, 1994, BY THE FOLLOWING VOTE;

AYES: Councilors Eddy, Goff, Greb, Horne
NAYES: None

SUBMITTED AND APPROVED BY THE MAYOR THIS 27TH DAY OF OCTOBER, 1994.

Willa D. Hill
Mayor

ATTEST:

H. Charles Brown
City Recorder

ORDINANCE NO. 568

AN ORDINANCE PROVIDING FEES FOR CONNECTION TO THE WATER SYSTEM OF THE CITY OF WILLAMINA, AMENDING ORDINANCE NO. 529; REPEALING SECTION 3, SUBSECTION 4 OF ORDINANCE NO. 529-A; REPEALING THAT PORTION OF RESOLUTION NO. 91-92-12 RELATING TO CONNECTIONS; AND DECLARING AN EMERGENCY.

THE CITY OF WILLAMINA, OREGON ORDAINS AS FOLLOWS:

SECTION 1. Section 3(4) of Ordinance No. 529 is hereby amended to read as follows:

Section 3(4) That all new water taps and service connection installations from the main, to and including the meter, shall be made by the water department of the City of Willamina. The cost, therefore payable in advance, shall be the sum of \$550.00 for connections one (1) inch and smaller. For connections larger than one (1) inch the cost shall be the actual cost of installation including materials and labor.

SECTION 2. Section 4(4) of Ordinance No. 529 is hereby amended to read as follows:

Section 4(4) the maintenance of meters will be borne by the City; provided, however, that where the replacement, repair, or adjustment of a meter is made necessary by the act, negligence, or carelessness of the owner or occupant of the premises, the expense to the City thereby shall be charged to the owner of the premises.

SECTION 3. Section 6 of Ordinance No. 529 is hereby repealed in its entirety.

SECTION 4. Section 3 Subsection 4 of Ordinance No. 529-A is hereby repealed in its entirety.

SECTION 5. That certain portions of Resolution No. 91-92-12 relating to "Connections" is hereby repealed in its entirety.

SECTION 6. The Council desires and deems it necessary for the preservation of the health, peace, and safety of the City of Willamina that this ordinance take effect at once, and therefore, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED BY THE CITY COUNCIL OF THE CITY OF WILLAMINA, OREGON ON THIS 27TH DAY OF OCTOBER, 1994, BY THE FOLLOWING VOTE;

AYES: Councilors Eddy, Goff, Greb, Horne
NAMES: None

SUBMITTED TO AND APPROVED BY THE MAYOR THIS 27TH DAY OF OCTOBER, 1994.

Julia D. Hill
Mayor

ATTEST:

J. Chamberlain
City Recorder

ORDINANCE NO. 569

AN ORDINANCE AMENDING ORDINANCE 532 (AN ORDINANCE REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS), BY REVISING SECTION 3 RELATING TO CONNECTION CHARGE; REPEALING SECTION 3, SUBSECTION 3 OF ORDINANCE 532-A AND REPEALING THAT PORTION OF RESOLUTION 91-92-13 RELATING TO CONNECTIONS AND DECLARING AN EMERGENCY.

THE CITY OF WILLAMINA, OREGON ORDAINS AS FOLLOWS:

Section 1. Section 3(3) of Ordinance No. 532 relating to connection charges is hereby amended to read:

Any person marking connections to the public sewer system shall pay a service connection charge of \$150.00, Said charge being a fee to defray the cost of permitting and inspection of the service connection. In addition, the installation of and associated cost of installation of the service connection from the public main to the building sewer shall be the sole responsibility of the person making said service connection. Said \$150.00 service connection charge will be waived if said owner can show that a per square foot assessment has previously been paid on said property.

Section 2. Section 3(4) of Ordinance No. 532 relating to connection charges is hereby repealed in its entirety.

Section 3. Section 3, subsection 3 of Ordinance No. 532A is hereby repealed in its entirety.

Section 4. That certain portion of Resolution No. 91-92-13 relating to "connections" is hereby repealed in its entirety.

Section 5. The council desires and deems it necessary for the preservation of the health, peace, and safety of the City of Willamina that this ordinance take effect at once, and therefore, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED BY THE CITY COUNCIL OF THE CITY OF WILLAMINA, OREGON ON THIS 27th DAY OF OCTOBER, 1994, BY THE FOLLOWING VOTE;

AYES: Councilors Eddy, Goff, Greb, Horne

NAYES: None

SUBMITTED TO AND APPROVED BY THE MAYOR THIS 27TH DAY OF OCTOBER, 1994.

Twila D. Hill
Mayor

ATTEST:

Charles Brown
City Recorder