

**SOUTHWEST LINCOLN COUNTY WATER PEOPLE'S UTILITY DISTRICT
ORDINANCE NO. 3
SYSTEM DEVELOPMENT CHARGE ORDINANCE**

SECTIONS

1. Purpose
2. Scope
3. Definitions
4. System Development Charge Established
5. Methodology
6. Authorized Expenditures
7. Expenditure Restrictions
8. Improvement Plan
9. Collection of Charge
10. Installment Payments
11. Exemptions
12. Credits
13. Notice
14. Segregation and Use of Revenue
15. Refunds
16. Implementing Regulations; Amendments
17. Appeal Procedure
18. Prohibited Connection
19. Penalty
20. Severability
21. Classification
22. Effective Date

The Southwest Lincoln County Water People's Utility District does ordain as follows:

Section 1. Purpose. The purpose of the system development charge is to impose an equitable share of the public costs of capital improvements for water service upon those developments and redevelopments that create the need for or increase the demands on the water system.

Section 2. Scope. The system development charges as imposed by this Section are separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, exaction, dedication, or fee otherwise provided by law or imposed as a condition of development approval application.

Section 3. Definitions. For purposes of this ordinance, the following mean:

- B. Unless otherwise exempted by the provisions of this ordinance, or by other local or state law, a system development charge is hereby imposed upon all development within the District, upon issuance of permit as stated in Section 9 herein or upon the act of making a connection to water within the District, whichever occurs first, and upon all development outside the boundary of the District that connects to or otherwise uses the water facilities of the District.

Section 5. Methodology.

- A. The methodology used to establish or modify a reimbursement fee shall promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities and be available for public inspection. The methodology used to establish or modify a reimbursement fee shall, where applicable, be based on:
- 1) Ratemaking principles employed to finance publicly owned capital improvements;
 - 2) Prior contributions by existing users;
 - 3) Gifts or grants from federal or state government or private persons;
 - 4) The value of unused capacity available to future system users or the cost of the existing facilities; and
 - 5) Other relevant factors identified by the District board.
- B. The methodology used to establish or modify an improvement fee shall, where applicable, demonstrate consideration of the estimated cost of projected capital improvements identified in an improvement plan (*see* Section 8) that are needed to increase the capacity of the systems to which the fee is related. The methodology shall be calculated to obtain the cost of capital improvements for the projected need for available system capacity for future system users.
- C. The methodology used to establish or modify a reimbursement fee or improvement fee shall be contained in a resolution adopted by the District board.

Section 6. Authorized Expenditures.

- A. Reimbursement fees shall be spent only on 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 debt for such improvements. An increase in system capacity may be established if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by improvement fees must be related to the need for increased capacity to provide service for future users.

data sources, including the cost index identified in Section 4(A) of this ordinance. A specific cost index or periodic data source must be:

- a. A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property, or a combination of the three;
- b. Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and
- c. Incorporated as part of the established methodology or identified and adopted by the District board in a separate resolution, or if no other index is identified in the established methodology, then the index stated in Section 4(A) of this ordinance.

Section 9. Collection of Charge.

- A. The system development charge is payable upon the issuance of:
 - 1) A building permit;
 - 2) A development permit;
 - 3) A development permit for development not requiring the issuance of a building permit;
 - 4) A permit or approval to connect to the water system;
- B. If no building, development, or connection permit is required, the system development charge 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.
- C. If development is commenced or connection is made to the water system without an appropriate permit, the system 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 associated use until the system development charge has been paid.
- D. The Administrative Manager shall collect the applicable system development charge from the permittee when a permit that allows building or development of a parcel is issued or when a connection to the water system of the District is made.
- E. The Operations Manager 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 10 of this ordinance, or unless an exemption is granted pursuant to Section 11 of this ordinance.

Section 10. Installment Payments.

- A. When a system development charge of \$20,000 or more is due and collectible, the

constructs, or dedicates a qualified public improvement as part of the development. The initial determination on all credit requests shall be a decision by the District Managers, and the applicant bears the burden of evidence and persuasion in establishing entitlement to a system development charge credit and the amount of credit in accordance with the requirements of this Section.

- B. To obtain a system development charge credit, the applicant must make the request, in writing, prior to the District's issuance of the first building permit for the development in question. In the request, the applicant must state the following:
- 1) Identify the improvement for which the credit is sought;
 - 2) Explain how the improvement is a qualified public improvement; and
 - 3) Document, with credible evidence, the value of the improvement for which credit is sought.
- C. The system development charge credit shall be an amount equal to the fair market value of the improvement. Fair market value shall be determined by the District Managers based on credible evidence of the following:
- 1) For dedicated lands, value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction;
 - 2) For a qualified public improvement yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a registered professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which the system development charge credit is sought;
 - 3) For a qualified public improvement already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the applicant; or
 - 4) For a qualified public improvement located on, or contiguous to, the site of the development, only the over-capacity portion as described in the definition of qualified public improvement is eligible for a system development charge credit. There is a rebuttable presumption that the over-capacity portion of such a qualified public improvement is limited to the portion constructed larger, or of greater capacity, than the District's minimum standard facility capacity or size needed to serve the particular development.
- D. Form of Credit and Limitation on Use. When given, system development charge credits will be for a particular dollar value as a credit against a system development charge assessed on a development. Credits may only be used to defray or pay the system development charge for the particular capital improvement system to which the qualified public improvement related, *e.g.*, credit from a qualified public improvement may only

prior to removing a name from the list, the District must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.

Section 14. 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 District. 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 that set forth in Section 6 of this ordinance.
- B. The Administrative Manager shall provide the District board with an annual accounting, by the end of each fiscal year, for system development charges showing the total amount of system development charge revenue collected for each type of facility and the projects funded from each account in the previous fiscal year. A list of the amount spent on each project funded, in whole or in part, with system development charge revenue shall be included in the annual accounting.

Section 15. Refunds.

- A. Refunds shall be given by the Administrative Manager upon finding that there was a clerical error in the calculation of a system development charge.
- B. Refunds shall not be allowed for failure to timely claim a credit under Section 12 of this ordinance, or for failure to seek an alternative system development charge rate calculation at the time of submission of an application for a building permit.
- C. The District shall refund to an applicant any system development charge revenues not expended within ten years of receipt from the applicant. Such refund will be in the amount paid at the time, unadjusted for inflation.

Section 16. Implementing Regulations; Amendments. The District board delegates to the District Managers the authority to adopt necessary procedures to implement the provisions of this ordinance including the appointment of a System Development Charge Program Administrator. All rules developed pursuant to that delegated authority shall be filed with the office of the Administrative Manager and be available for public inspection.

Section 17. Appeals; Procedure.

- A. A person challenging the propriety of an expenditure of system development charge revenue may appeal the decision or the expenditure to the District board by filing a written appeal petition with the Administrative Manager pursuant to Subsection (D) below. An appeal of an expenditure must be filed within two years of the date of the subject expenditure.
- B. A person challenging the propriety of the methodology adopted by the board pursuant to Section 5 of this ordinance may appeal the decision or the expenditure to the board by filing a written appeal petition with the Administrative Manager pursuant to Subsection (D) below. An appeal petition challenging the adopted methodology shall be filed not

Section 18. Prohibited Connection. No person may connect to the water system of the District unless the appropriate system development charge has been paid or the lien or installment payment method has been applied for and approved.

Section 19. Penalty. Violation of Section 18 of this ordinance constitutes a violation and is punishable by a fine not to exceed \$1,000 per day.


Section 20. Severability. The provisions of this ordinance are severable, and it is the intention of the board to confer the whole or any part of the powers herein provided for. If any clause, section, or provision of this ordinance is declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall remain in full force and effect and be valid as if such invalid portion had not been incorporated into the ordinance. It is hereby declared that the board intends that this ordinance would have been adopted had such an unconstitutional provision not been included.

Section 21. Classification. The District board hereby determines that any fee, rates, or charges imposed by this ordinance are not a tax subject to the property tax limitations of Article XI, Section 11(b), of the Oregon Constitution.

Section 22. Effective Date. This ordinance shall become effective 30 days after its passage by the Board of Directors.


Passed by unanimous vote in a public hearing during a Board of Directors meeting of the Southwest Lincoln County Water People's Utility District on this day November 19, 2024.

SIGN:



Roxie Cuellar, Board President

Attest:



Name: