

RESOLUTION #99-01

A Resolution of the SOUTHWEST LINCOLN COUNTY WATER DISTRICT, Imposing a portion of the cost of capital improvement for water upon those developments that create the need for or increase the demands on capital improvements. Establishing Rules and Regulations, providing Penalties for Violation Thereof.

The Board of Water Commissioners of Southwest Lincoln County Water District does resolve as follows:

**Section 1. Purpose.** The purpose of the systems development charge is to impose a portion of the cost of capital improvements for water upon those developments that create the need for or increase the demands on capital improvements.

**Section 2. Scope.** The systems development charge imposed by this resolution 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 resolution, the following terms mean:

Capital improvements. Facilities or assets used for water supply, treatment and distribution;

Development. Constructing a building, 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 terminating a right of access.

Land area. 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.

Owner. The owner or owners of record title or the purchasers under a recorded sales agreement, and other persons having an interest of record in the described real property.

Parcel of land. 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 zoning, subdivision, or other development, resolutions or statutes.

Qualified public improvements. A capital improvement that is:

- (1) Required as condition of residential development approval;
- (2) Identified in the plan adopted pursuant to section 8 of this resolution

Systems development charge. An improvement fee collected at the time of connection to the water system. "Systems development charge" includes that portion of a water connection charge that is greater than the amount necessary to reimburse the District for the average cost of inspecting and installing connections with the water facilities. "Systems 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 requirement or conditions imposed by a land use decision.

#### **Section 4. Systems Development Charge Established.**

(1) Systems development charges shall be established and may be revised by resolution of the Board of Water Commissioners.

(2) Unless otherwise exempted by provisions of this resolution or other local or state law, a system development charge is hereby imposed upon all parcels of land within the District, and upon all lands outside the boundary of the District that connect to or otherwise use the water facilities of the District.

#### **Section 5. Methodology.**

(1) The methodology used to establish the improvement 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 Board of Water Commissioners. 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.

(2) The methodology used to establish the improvement fee shall be contained in a resolution adopted by the Board of Water Commissioners.

#### **Section 6. Authorized Expenditures.**

(1) Improvement fees shall be spent only on capacity increasing capital improvement, including expenditures relating to repayment of future debt for the improvements. An increase 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 demands created by development.

(2) A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the District pursuant to section 8 of this resolution.

(3) Notwithstanding subsection (1) of this section, systems development charge revenues may be expended on the direct costs of complying with the provisions of this resolution, including system development charge methodology and providing an annual accounting of systems development charge expenditures.

#### **Section 7. Expenditure Restrictions.**

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

#### **Section 8. Improvement Plan.** The Board of Water Commissioners shall adopt a plan that:

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

#### **Section 9. Collection of Charge.**

- (1) The systems development charge is payable upon application for water service.
- (2) The District shall not permit or allow connection until the charge has been paid.

**Section 10. Credits.** Credit shall not be transferable from one development to another except in compliance with standards adopted by the Board of Water Commissioners.

**Section 11. Segregation and Use of Revenue.**

(1) All funds derived from the systems development charge are to be segregated by accounting practices from all other funds of the District.

(2) The District office shall provide the Board of Water Commissioners with an annual accounting, based on the District's fiscal year, for systems development charges showing the total amount of systems development charge revenues collected.

**Section 12. Appeal Procedure.**

(1) A person challenging the propriety of an expenditure of systems development charge revenues may appeal the decision or the expenditure to the Board of Water Commissioners by filing a written request with the District office describing the 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 made by the Board of Water Commissioners under this resolution must be filed within 10 days of the date of the decision.

(3) After providing notice to the appellant, the Board of Water Commissioners shall determine whether the decision or the expenditure is in accordance with this resolution and the provisions of ORS 223.297 to 223.314 and may affirm, modify, or overrule the decisions. If the Board of Water Commissioners determines that there has been an improper expenditure of system development charge revenues, the Board of Water Commissioners shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the fund from which it was spent.

(4) A legal action challenging the methodology adopted by the Board of Water Commissioners pursuant to section 5 shall not be filed later than 60 days after its adoption.

**Section 13. Prohibited Connection.** No person may connect to the water system of the District unless the appropriate systems development charge has been paid.

**Section 14. Penalty.** Violation of section 13 of this resolution is punishable by a fine not to exceed \$250.00.

**Section 15. Construction.** The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of this resolution.

**Section 16. Severability.** The invalidity of a section or subsection of this resolution shall not affect the validity of the remaining sections or subsections.

**Section 17. Effective Date.** This resolution shall be effective immediately upon its adoption.

ADOPTED by the Board of Water Commissioners the 9th day of June, 1999

AYES: 4  
NAYES: 0

Connie A. Field  
Chairperson, Board of Water Commissioners

ATTEST

James H. Goodwin  
Secretary, Board of Water Commissioners