

**RALEIGH WATER DISTRICT
SYSTEM DEVELOPMENT CHARGE ORDINANCE #1-11**

Section 1. Purpose. The purpose of this ordinance is to provide authorization for system development charges for capital improvements pursuant to ORS 223.297 - 223.314 for the purpose of creating a source of funding for existing system capacity and/or the installation, construction and extension of future capital improvements. These charges shall be collected either at the time of increased usage or at the time of permitting development of properties which increase the use of capital improvements and generate a need for those facilities.

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

Definitions. For purposes of ordinance, the following definitions shall apply:

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

Development. Conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, or creating or terminating a right of access.

Improvement fee. A fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to the provisions of this ordinance.

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(s) of record title or the purchaser(s) 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 includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.

Permittee. The person to whom a Building Permit, Development Permit, or Right-of-Way Access Permit is issued.

Qualified public improvement. A capital improvement that is:

- (a) Required as a condition of development approval;
- (b) Identified in the System Development Charge Project Plan; and
- (c) Not located on or continuous to a parcel of land that is the subject of the development approval.

Reimbursement fee. A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to the provisions of this ordinance.

System development charge. 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” 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 3. System Development Charge Imposed; Method for Establishment Created.

(a) Unless exempted pursuant to Section 8 herein, a systems development charge is hereby imposed upon all development within the Raleigh Water District.

(b) Systems development charges shall be established and may be revised by resolution of the Raleigh Water District Board. The resolution shall set the amount of the charge.

Section 4. Methodology.

(a) The methodology used to establish the reimbursement fee shall consider the cost of the then-existing facilities, prior contributions by then-existing system users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the District Board. The methodology shall promote the objective that future systems users shall contribute not more than an equitable share of the cost of then-existing facilities.

(b) 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 and other relevant factors identified by the District Board.

(c) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be adopted by resolution.

Section 5. Authorized Expenditure.

(a) 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.

(b) (1) 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 occurs 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 demands created by projected development.

(2) A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the Systems Development Charge Fund Project Plan adopted by the District.

(c) 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 funds.

Section 6. Project Plan.

(a) The District Board shall adopt by resolution the Systems Development Charge Fund Project Plan. This Plan:

- (1) Defines the amount of current or under construction capacity available for new development and the cost of the facilities comprising this capacity;
- (2) Lists the capital improvements that may be funded with improvement fee revenues; and
- (3) Lists the estimated cost and estimated time of construction of each improvement.

(b) In adopting this plan, the District Board may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section. The District Board may modify this project plan at any time through the adoption of an appropriate resolution.

Section 7. Collection of Charge.

(a) The systems development charge is payable upon issuance of:

- (1) A building permit;
- (2) A development permit for development not requiring the issuance of a building permit;
- (3) Approval to connect or increase the usage of the system or systems provided by the District or
- (4) A right-of-way access permit.

(b) The resolution which sets the amount of the charge shall designate the permit or systems to which the charge applies.

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

(d) The District's General Manager or his/her designee shall collect the applicable system development charge from the permittee or system user.

(e) The District's General Manager or his/her designee shall not issue such permit or allow connection or increased usage of the system(s) until the charge has been paid in full, unless an exemption is granted pursuant to Section 8.

(f) All moneys collected through the system development charge shall be retained in a separate fund and segregated by type of system development charge and by reimbursement vs improvement fees.

Section 8. Exemptions.

(a) Structures and uses established and existing on or before the effective date of the resolution.

(b) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the District's rules are exempt from all portions of the system development charge.

(c) An alteration, addition replacement or change in use that does not increase the parcel's or structure's use of a capital improvement are exempt from all portions of the system development charge.

Section 9. Credits.

(a) A permittee is eligible for credit against the system development charge for constructing a qualified capital improvement. A qualified capital improvement means one that meets all of the following criteria:

- (1) Is required as a condition of development approval by the District Board; and
- (2) Is identified in the adopted System Development Charge Fund Project Plan; and
- (3)
 - (i) Is not located within or contiguous to the property or parcel that is subject to development approval; or
 - (ii) Is not located in whole or in part on, or contiguous to, property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.
- (4) This credit shall be only for the improvement fee charged for the type of improvement being constructed. Credit under this section may be granted only for the cost of that portion of the improvement that exceeds the facility size or capacity needed to serve the development project.

(b) Applying the adopted methodology, the District may grant a credit against the improvement charge for capital facilities provided as part of the development that reduces the development's demand upon existing capital improvements or the need for further capital improvements or that would otherwise have to be constructed at District expense under the then existing District Board policies.

(c) When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project.

(d) All credit requests must be in writing and filed with the District before the issuance of a building permit. Improvement acceptance shall be in accordance with the usual and customary practices, procedures and standards of the Raleigh Water District. The amount of any credit shall be determined by the District and based upon the subject improvement construction contract documents, or other appropriate information, provided by the applicant for the credit. Upon a finding by the District that the contract amounts exceed prevailing market rate for a similar project, the credit shall be based upon market rates. The District shall provide the applicant with a credit on a form provided by the District. The credit shall state the actual dollar amount that may be applied against any system development charge imposed against the subject property. The applicant has the burden of demonstrating qualification for a credit.

(e) Credits shall be apportioned against the property which was subject to the requirements to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots or parcels constituting the property shall be proportionate to the anticipated public facility service requirements generated by the respective lots or parcels. Upon written application to the District, however, credits shall be reapportioned from any lot or parcel to any other lot or parcel within the confines of the property originally eligible for the credit. Reapportionment shall be noted on the original credit form retained by the District.

(f) Any credits are assignable; however, they shall apply only to that property subject to the original condition for land use approval upon which the credit is based or any partitioned or subdivided parcel or lots of such property to which the credit has been apportioned. Credits shall only apply against system development charges, are limited to the amount of the fee attributable to the development of the specific lot or parcel for which the credit is sought and shall not be a basis for any refund.

(g) Any credit request must be submitted before the issuance of a building permit. The applicant is responsible for presentation of any credit and no credit shall be considered after issuance of a building permit.

(h) Credits shall be used by the applicant within ten years of their issuance by the District.

Section 10. Notification/Appeals.

(a) The District shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of the system development charge methodology. These persons shall be so notified in writing of any such proposed changes at least 90 days prior to the first hearing to adopt or amend such methodology(ies). This methodology shall be available at least 60 days prior to the public hearing. No challenge to the system development charge methodology shall be accepted after 60 days following final adoption by the District Board.

Section 11. Annual Accounting.

(a) The District shall provide and make available on January 1 of each year an annual accounting for system development charges showing the total amount of system development

charges collected for each system along with a list of projects funded in whole or in part through system development charges.

THIS ORDINANCE ADOPTED BY THE RALEIGH WATER DISTRICT THIS 19th DAY OF JANUARY, 2011.

By _____

Aaron O'Donnell, Chairman

Attest:

By _____

Phillip Gladstein, Secretary