

CITY OF GARIBALDI
ORDINANCE NO. 288

**AN ORDINANCE AMENDING SYSTEM DEVELOPMENT
CHARGES ORD. NO. 183 POLICIES AND METHODOLOGIES.**

SECTIONS

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|---|--|
| 1 | <i>Definitions</i> |
| 2 | <i>System Development Charge Established</i> |
| 3 | <i>Notice</i> |
| 4 | <i>Methodology</i> |
| 5 | <i>Compliance with State Law</i> |
| 6 | <i>Collection of Charge</i> |
| 7 | <i>Credits</i> |
| 8 | <i>Appeals Procedure</i> |
| 9 | <i>Effective Date</i> |

WHEREAS, Ordinance No. 183 adopted June 10, 1991 allowed the City to assess system development charges; and

WHEREAS, the City has water, sewer, storm sewer and transportation master plans identifying capital improvement projects and the City has acquired land for park/open space development; and

WHEREAS, staff views that there is potential for growth and that storm sewer, transportation and parks infrastructure should be developed to the same extent as water and sewer systems; and

WHEREAS, the City Council at the August 15, 2005 regular meeting hired Curren-McLeod to develop updated methodologies for all of its system development charges; NOW THEREFORE,

THE CITY OF GARIBALDI ORDAINS AS FOLLOWS:

Section 1. DEFINITIONS: The following words and phrases, as used in this ordinance, shall have the following definitions and meanings:

“A. *Capital Improvement(s)*. Public facilities or assets used for any of the following:

5. *Transportation System Improvements”*

"D. *Qualified Public Improvements.* A capital improvement that is:

4. 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."

"E. *Reimbursement Fee.* A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to Section 4, for which the local government determines that capacity exists.

F. *System Development Charge.* A reimbursement fee, an improvement fee or a combination thereof assessed or collected at any of the times specified in Section 8. It shall not include connection or hook-up fees for sanitary sewers, storm drains or water lines. Such fees are designed by the City only to reimburse the City for actual or average costs for such connections.

G. *Staff.* The Director of Public Works, Administrator or their designees."

Section 2. Amend to Section 4. SYSTEM DEVELOPMENT CHARGE ESTABLISHED:

"Section 4. SYSTEM DEVELOPMENT CHARGE ESTABLISHED:

A. Unless otherwise exempted by the provisions of this chapter or other local or state law, a system development charge is hereby imposed upon all new development within the City, and all new development outside the boundary of the City that connects to or otherwise has access to the sanitary sewer system, storm drainage system, water system, transportation system or park system of the city.

B. System development charges for each type of capital improvement may be created through application of the methodologies described in Section 5 of this ordinance. The amounts of each system development charge shall be adopted initially by resolution. Changes in the amounts shall also be adopted by resolution, including those resulting from a change in the cost of materials, labor or real property applied to projects or project capacity as set forth on the list adopted pursuant to Section 6, or inflationary cost impacts. Inflationary cost impacts shall be measured and calculated each January by staff and approved by

resolution. Such calculations will be based upon charges in the *Engineering News Records Construction Index (ENR Index)* for Seattle, Washington.”

Section 3. Amend Section 5 and renumber previous sections 5-12, 6-13.

“Section 5. NOTICE

- A. The City shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge.
- B. Written notice must be mailed to persons on the list at least 90 days prior to the first hearing to establish or modify a system development charge, and the methodology supporting the system development charge must be available at least 60 days prior to the first hearing.
- C. The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the City.
- D. Staff may periodically delete names from the list, but at least 30 days prior to removing a name from the list the person whose name is to be deleted shall be notified that a new written request for notification is required if the person wishes to remain on the notification list.
- E. Legal action intended to contest the methodology used for calculating a system development charge may not be filed after 60 days following adoption or modification of the system development charge ordinance or resolution. A person shall request judicial review of the methodology used for calculating a system development charge only as provided in ORS 34.010 to 34.100.”

Section 4. Amend to Section 6. *METHODLOGY*:

“Section 6. METHODOLOGY:

- A. The methodology used to establish a reimbursement fee shall consider prior contributions by then-existing users, the value of unused capacity available to future users, rate-making principles employed to finance publicly owned capital improvements, grants, gifts and other relevant factors identified by the Director of Public Works and/or Administrator. The methodology shall promote the objective that future system users shall contribute an equitable share to the cost of existing facilities.
- B. The methodology used to establish the public improvement charge shall consider the cost of projected capital improvements identified in the plan pursuant to Section 7 that are 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.

C. The methodology may also provide for a credit as authorized in Section 10.

D. Except when authorized in the methodology adopted under this section, the fees required by this ordinance which are assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment are separate from and in addition to the system development charge and shall not be used as a credit against such charge.

E. The methodologies used to establish the system development charge shall be adopted by resolution. The specific system development charge may be adopted and amended concurrent with the establishment or revision of the system development charge methodology. The Director of Public Works and Administrator shall review the methodologies established under this section periodically and shall recommend amendments, if and as needed, to the Council for its action."

Section 5. Amend to Section 7. COMPLIANCE WITH STATE LAW

"Section 7. COMPLIANCE WITH STATE LAW:

B. The capital improvement plan required by law as the basis for expending the public improvement charge component of system development charge revenues shall be adopted concurrently with adoption of each system development charge."

Section 6. Amend to Section 8. COLLECTION OF CHARGE

"B. If development is commenced or connection is made to the water system, sanitary sewer system, street system, park system or storm sewer system without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

C. The City Recorder or his/her designee shall collect the system development charges from the person responsible for or receiving the benefit of the development. The City Recorder or his/her designee shall not issue any permit or allow connections described in Section 8(A) until the charge has been paid in full or until provision for installment payments has been made within the limits prescribed by resolution."

Section 7. Amend to Section 10. CREDITS

"Section 10. CREDITS:

A. As used in this section and in the definition of "qualified public improvements" in Section 1, the word, "contiguous", means: property that abuts.

B. When development occurs that must pay a system development charge under Section 4 of this chapter, the system development charge for the existing use or the use two years prior to issuance of the new permit shall be calculated and if it is less than the systems development charge for the proposed use, the difference between the system development charge for the existing use and the proposed use shall be the system development charge required under Section 4. 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 system development charge shall be required and a credit shall be given for the specific system development charge.

C. Credit allowed in this subsection is in addition to any credit allowed under Subsection 10(B). A credit shall be given for the cost of a qualified public improvement that is required as a condition of development approval, identified in the capital improvement plan, and is either:

1. Not located on or contiguous to property that is the subject of the development approval; or
2. 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.

D. When establishing the methodology, staff may provide for a credit against the public improvement charge, the reimbursement fee, or both, for a qualified public improvement.

E. Upon change of use or land use action, a credit shall be given to account for pre-existing use using the most recent methodology. No refund shall be provided on account of a credit.

F. Credit shall not be transferable from one type of development charge or fee to another.

Section 8. Amend to Section 11. APPEAL PROCEDURES

"B. A person disagreeing with a decision on the amount of the system

development charged, an expenditure of funds collected under this ordinance, or the methodology used to determine the system development amounts may file an appeal by complying with subsection (C) and (D) of this section."

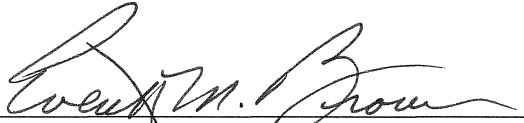
"E. Unless the appellant and the City agree to a longer period, an appeal shall be considered by staff within 10 working days of the receipt of the written appeal. A written response must be given to the appellant within this time period.

F. The appellant shall have 10 days after receipt of staff's decision to appeal this decision to staff. An appellant who fails to file such a statement with staff within 10 working days shall waive his/her objections and staff's decision shall be final.

G. The Council shall consider an appeal filed under Section 3 within 20 working days. The appellant shall be notified of the Council hearing date 10 working days prior to the Council hearing. By Council motion, the report and recommendations of staff shall be approved, modified or rejected. Council decision shall be final. Any legal action contesting the Council decision shall be filed within 60 days of the Council's decision."

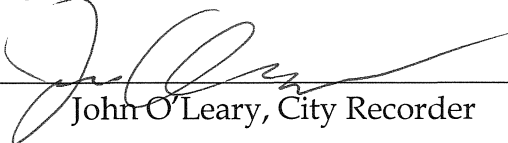
Section 9. EFFECTIVE DATE: This Ordinance shall take effect THIRTY (30) days after its passage by the Council and approval of the mayor.

Passed by the Common Council and approved by the Mayor of the City of Garibaldi, this 17th day of January, 2006.



Hon. Everett M. Brown, Mayor

ATTEST:



John O'Leary, City Recorder