TITLE 9
CHAPTER 1

UTILITIES SYSTEMS ENLARGEMENT

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9-1-1: ADMINISTRATIVE PROVISIONS:

A. Purpose: The purpose of the systems development charge is to impose a portion of the public cost of capital improvements upon those developments that create the need for or increase the demands on capital improvements. (Ord 15, Series 1991).

B. Scope: The systems development charge provided in this Chapter 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. A systems development charge is to be considered in the nature of a charge for service to be rendered or a service hookup charge. (Ord 15, Series 1991).

C. Construction: The rules of statutory construction provided in ORS 174.010 to 174.110 are adopted and by this reference made a part of this Chapter.

9-1-2: DEFINITIONS:

ASSISTED LIVING FACILITY — A facility that employs caregivers; residents live in private apartments; may take meals in a central dining room.

CAPITAL IMPROVEMENT(S) — Facilities or assets used for any of the following:

A. Water supply, treatment and distribution;

B. Sanitary sewers, including collection, transmission and treatment;

C. Storm sewers, including drainage and flood control;

D. Transportation, including but not limited to streets, sidewalks, bike paths, street lights, street trees, public transportation, vehicle parking, and bridges; or

E. Park and recreation, including but not limited to mini-neighborhood parks, neighborhood parks, community parks, metropolitan parks, and other recreational facilities. (Ord. 15, Series 1991)

DEVELOPMENT — The act of conducting a building or mining operation, or making a physical change in the use or appearance of a structure or land, which increases the usage of any capital improvements or which creates the need for additional capital improvements. (Ord 15, Series 1991).

DWELLING UNIT	A dwelling to be occupied as a residence for an individual family.
EXTRA CAPACITY FACILITIES	Includes, but are not limited to: A. For Water: For participation in water mains over eight inches (8") in diameter, pump stations, reservoirs, wells and all additions for expansions of the water treatment and distribution systems, except service laterals eight inches (8") or less in diameter. B. For Sewers: For participation in sewer mains over eight (8") in diameter, storm drains over twelve inches (12") in diameter, separation of storm and sanitary sewers, lift stations and all expansions or additions to the sewage collection and treatment systems, except service laterals over eight inches (8") or less in diameter. C. For Street: Signalization, channelization, arterial streets, collector streets, street widening, participation in over-width street paving, and right-of-way requisition. D. For public stormwater management facilities conveying or treating stormwater originating from multiple property ownerships. (Ord. 11, Series 2005)
IMPROVEMENT FEE	A fee for costs associated with capital improvements to be constructed after the date this ordinance becomes effective. (Ord 15, Series 1991).
LAND AREA	All surface area of any parcel, including building area, excepting any portion of the parcel within a recorded right of way for a public street or alley.
NURSING HOME FACILITY	A facility with permanent facilities that include inpatient beds, providing medical services, including nursing services excluding surgical services.
PARCEL OF LAND	A platted lot or any other tract of land which is occupied, or may be occupied by a structure or other use; including the yards and other open spaces required under the zoning regulations of the City, or reasonably attributable to an existing or proposed use.
PUBLIC USE	Any facility, activity or service which the local government seeking the exemption is authorized by law to possess or perform. (Ord. 23 Series 1990, 9-4-90).
QUALIFIED PUBLIC IMPROVEMENTS	A capital improvement that is: A. Required as a condition of development approval; B. Identified in the plan adopted pursuant to subsection 9-1-7-B; and C. Not located on or contiguous to a parcel of land that is the subject of the development approval. As used in this definition "contiguous" means: in a public way which abuts. (Ord. 15, Series 1991)
REIMBURSEMENT FEE	A fee for costs associated with capital improvements constructed or under construction on the effective date of this Ordinance. (Ord 15, Series 1991).

RESIDENTIAL CARE FACILITY	A facility that cares for six or more persons over the age of 18 on A twenty-four hour basis.
SYSTEMS DEVELOPMENT CHARGE	A reimbursement fee, an improvement fee or a combination thereof assessed or collected at any of the times specified in subsection 9-1-4-A. It shall also include that portion of a water or sanitary sewer connection charge that is greater than the amount necessary to reimburse the City for its average cost of inspecting and installing connections with the water system or the sanitary sewer system. "Systems development charge" does not include: A. Any fees assessed or collected as part of a local improvement district; B. A charge in lieu of a local improvement district assessment; or C. The cost of complying with requirements or conditions imposed upon a land use decision. (Ord. 15, Series 1991)

9-1-3: SYSTEMS ENLARGEMENT CHARGE PROVIDED:

A. Rates:

1. System development charge established. Unless otherwise exempted by the provisions of this chapter or other local or state law, effective July 1, 1991 a systems development charge is hereby imposed upon all new development within the City, and all development outside the boundary of the City that connects to or otherwise uses the water or sanitary sewer systems of the City. (Ord 15, Series 1991).

2. Applicable to Certain Properties: A parcel of land is exempt from applying for or paying a fee for a building permit is not thereby exempt from paying any part of the systems development charge. The owner or developer of such land prior to the commencement of any construction upon that parcel upon each occasion that a building permit would be applied for and paid for, except for such exemption, shall notify the City that such construction is imminent and the City Manager shall thereupon issue to the owner a fee-exempt building permit for such construction. Upon that occasion, or as soon as the City Manager learns that construction has commenced, if the owner or developer fails to give notice, the systems development charge shall be calculated and shall become immediately due and payable, but the owner may apply to subject the property to a City lien and to pay that lien in installments as otherwise provided in this Chapter. No connection to the sewer or water facilities of the City may be made unless the appropriate systems development charge has been paid or the lien and installment payment method has been applied for. (Ord 15, Series 1991).

B. Indexing:
System Development Charges shall be adjusted annually July 1 of each year, based on the change in the 20-City Construction Cost Index (Index) published annually by the Engineering News Record ENR. Each Systems Development Charge will be adjusted by a percentage equal to the percentage of change in the ENR Annual Average for the previous calendar year. For example, the ENR Index for 2004 was 7511. The Index for 2005 was 7446 or a percentage change of 4.65%. Thus on July 1, 2006 the System Development Charges will be adjusted upward by 4.65%. (Ord. No. 3, Series 2006)

9-1-4: COLLECTION:

A. The systems development charge is immediately due and payable upon impact to the system such as at annexation, issuance of a building permit or connection to any system of the City, or upon enlargement of a structure as provided in this Chapter, whichever occurs first. If construction is commenced or connection is made to the any city system without an appropriate permit, the systems development charge is immediately due and payable upon the earliest date that any such permit was required. The developer, owner or other person benefiting from the development shall pay and the City Manager shall collect the applicable systems development charge, upon annexation, when issuing any building permit or before permitting any connection to any system of the City. The City Manager shall decline to issue such a permit or to permit such connection until that charge has been paid in full. Whenever the full and correct systems development charge has not been paid and collected, for any reason, the City Manager 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 or names of the owner or owners of record title or the purchaser or purchasers under a recorded sales agreement of the described land. The City Council shall set a public hearing and shall direct the City Manager to give notice of that hearing to each of those owners and contract purchasers together with a copy of that Manager's report concerning the unpaid charge, either in person or by certified mail. Upon public hearing, the Council may accept, reject or modify the Manager's report and, if it finds that any charge is unpaid and uncollected, the Council, may direct the City Recorder to docket the unpaid and uncollected charge in the City's record of liens and, upon completion of the docketing, the City shall have a lien against the described land for the full amount of unpaid charge, interest and the City's actual costs of serving notice upon the owners or contract purchasers. That lien shall be enforced in the manner provided in ORS chapter 223. (Ord 15, Series 1991). (Ord. 5, Series 2007)

B. Whenever a system development charge of one thousand dollars ($1000.00) or more would otherwise be due and collectible, the owner of the parcel of land may apply, upon forms provided by the City Manager, for the voluntary imposition upon the parcel for a lien for the full amount of the systems development charge and the payment of that lien in twenty (20) semi-annual installments plus interest.

This type of financing for SDC's are only made available to:

1. Existing development with the city limits
2. Existing development which is annexed into the city after April 1, 2007

The burden of showing the identity of the owner of record or of the contract purchaser of record of the parcel shall be upon the applicant. Upon receipt of such an application, the City Manager shall compute the amount of the systems development charge and shall report to the City Recorder the amount of the charge, the date upon which that charge is due, the name of the owner of record or the purchaser of record, and the description of the property, and upon receiving that report the City Recorder shall docket the lien in the City's docket of liens, and from the time that docketing is completed, the City shall have a lien upon that described land for the amount of the charge and a market rate interest calculated at three points (3 points) over the Federal Home Loan Bank of Seattle Intermediate/Long-Term-Fixed-Rate Advance Index. The City Manager is authorized to request that all or part of the interest may be waived for public agencies, by the City Council whenever the City manager deems this to be in the public interest. (Ord. 6, Series 2009) That lien shall be enforced in the manner provided in ORS chapter 223. (Ord 15, Series 1991).

Section 7. Declaration of Emergency. It is hereby found and determined that matters regarding the deferral of fees and charges referenced in Sections 1, and 2 herein above are necessary for the immediate economic stimulation and encouragement of development within the city limits of Florence, Oregon's planning and building jurisdiction and, therefore, and emergency exists and this ordinance shall take effect upon adoption by the Council and approval by the Mayor.

C. Collection deferral. *[Section 9-1-4-C shall lapse, and be of no further effect after June 30, 2021 without need of any action by the City Council per Ordinance No. 6, Series 2020 effective July 1, 2020, and shall be removed by administrative action of the City Recorder]*

1. Deferral option. For the assessment of charges pursuant to Section 9-1-4-A related to new construction, the charges may be deferred at the request of the property owner until the final building occupancy is requested.

2. Payment upon conveyance. In the event that the real property on which the fees have been deferred is sold or otherwise conveyed, the charges deferred shall become immediately due and payable to the City. Sale includes selling, conveying or assigning any or all of the property or the owner's interest in the property.

3. Enforcement. The deferred charges shall be a lien upon the property until paid in full. In addition, the owner shall be required to execute a request for and a consent to an enforcement agreement in the amount of the charges deferred on each property for which a deferral is requested. The request and consent shall be made on a form prepared by the City. Upon receipt, the City shall record the enforcement agreement in the City's lien docket. The enforcement agreement shall authorize the City to withhold setting a water meter on the property for which a deferral has been requested, or, if the property is already receiving water service, to remove the water meter pursuant to Section 4-1-5-7, and withhold service to their property until the deferred charges have been paid in full.

9-1-5: EXEMPTIONS:

A. Full Exemption: Any parcel of land which has established use:

1. Of streets by an existing structure or a valid building permit issued for the property; and

2. Of water by connection to the City water system or a water tap order issued for the property; and

3. Of sewers by connection to the City sewer system or a sewer connection permit issued for the property on or before the effective date hereof.

4. Of storm drainage by an existing structure or a valid building permit issued for the property. (Ord. 11, Series 2005)

is exempt from the systems development charge to the extent of the structure then existing on the land or covered by the building permit issued for the land on or before the effective date hereof and to the extent of the parcel of land as it is constituted on that date.

B. When adopting the methodology resolution, the Council may establish full or partial exemptions from all or part of the systems development charge. (Ord 15, Series 1991).

C. Public Property:
Exemption for certain property taxes supported units of government: Any parcel of land and proposed improvements thereon in the City which are or will continue in public use by a unit of local government supported by property taxes levied on property within the City may be exempted from System Development Charge when the City Council deems it to be in the best interest of the City, subject to the following conditions:

If the land or improvements thereon are or become subject to payment of property taxes due to the termination of the property tax exemption under ORS 307.090, at any time within ten years after the date that the System Development Charge would have been otherwise due and payable, the amount of the System Development Charge, together with any increase indicated by the Engineering News Record 20-City Construction Index, shall be paid by the owner of the land or improvements causing the termination of the property tax exemption. (Ord. No. 3, Series 2006)

D. Affordable Housing: *[Section 9-1-4-D shall lapse, and be of no further effect after June 30, 2021 without need of any action by the City Council per Ordinance No. 6, Series 2020 effective July 1, 2020, and shall be removed by administrative action of the City Recorder]*
New single-family residential dwelling units meeting the following square footage criteria shall be eligible for a partial exemption in the amount indicated. The square footage classifications shall be determined by a measurement of the floor space of the residential dwelling unit's interior living space (excluding garages, but including unfinished basements).

Square footage classification	Amount of partial exemption
Less than 1,000 sq. ft.	60% exemption
1,000 – 1,199 sq. ft.	50% exemption
1,200 – 1,399 sq. ft.	40% exemption
1,400 – 1,599 sq. ft.	30% exemption
1,600 – 1,799 sq. ft.	20% exemption

E. Accessory Dwelling Units: *[Section 9-1-4-E shall lapse, and be of no further effect after June 30, 2021 without need of any action by the City Council per Ordinance No. 6, Series 2020 effective July 1, 2020, and shall be removed by administrative action of the City Recorder]*
New Accessory Dwelling Units as defined in FCC 10-2 shall be eligible for a 100% exemption.

9-1-6: CREDITS:

A. When development occurs that must pay a system development charge under Section 9-1-3 the system development charge for the existing use shall be calculated and if it is less than the system development charge for the proposed use, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge required under Section 9-1-3. If the change in use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required, however, no refund or credit shall be given. (Ord 15, Series 1991).

B. The limitations on the use of credits contained in this subsection shall not apply when credits are given under subsection C of this section. A credits shall be given for the cost of a qualified public improvement associated with a development. If a qualified public improvement is located partially on and partially off the parcel of land that is the subject of the approval, the credit shall be given only for the cost of the portion of the improvement not located on or wholly contiguous to the parcel of land. The credit provided for by this subsection shall be only for the improvement fee charged 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. (Ord 15, Series 1991).

C. When establishing the methodology, the Council may provide for a credit against the improvement fee, the reimbursement fee, or both, for a capital improvement constructed as part of the development that reduces the development's demand upon existing public capital improvements or the need for future public capital improvements or that would otherwise have to be constructed at City expense under the then-existing Council policies. (Ord 15, Series 1991).

D. Credit shall not be transferable from one type of capital improvements to another.

9-1-7: COMPLIANCE WITH STATE LAW:

A. The revenues received from the systems development charges shall be deposited to the fund for each capital improvement designated in the methodology resolution and shall be budgeted and expended as provided by state law. The accounting of such revenues and expenditures required by state law shall be included in the City's annual financial audit required by ORS Chapter 294.

B. The capital improvement plan required by state law as the basis for expending revenues from the improvement fee of the systems development charge shall be the documents identified in the methodology resolution. (Ord 15, Series 1991).

9-1-8: APPEALS: Any person who is aggrieved by the methodology adopted by the Council, by the expenditure of systems development charges revenues or by a decision made by the City Manager under this Chapter may appeal that decision to the City Council by filing a written request with the City Recorder within ten days (10) of the Council's action adopting the methodology or authorizing the expenditure or of receiving the City Manager's written decision. Such appeal shall describe with particularity the decision from which the person seeks reconsideration or appeals, the error of that opinion and the relief sough by the person from the City Council. In determining the appeal, the Council shall determine whether the decision is correct and may affirm, modify, extend or overrule that decision. (Ord 15, Series 1991).

9-1-9: REGULATIONS: The City Manager may adopt such rules and regulations as the Manager deems necessary for the proper and uniform administration and interpretation of this Chapter. Such rules and regulations shall be subject to review by the City Council. (Ord 19, Series 1990).

Amended by Ord 19, Series 1990.
Amended by Ord 23, Series 1990.
Amended by Ord 15, Series 1991.
Amended by Ord. 11, Series 2005
Amended by Ord. 3, Series 2006
Amended by Ord. 5, Series 2007 (Section 9-1-4)
Amended by Ord. 6, Series 2009 (Section 9-1-4-B)
Amended temporarily by Ord. 7, Series 2009 (Section 9-1-4) – Expired 12.31.09
Amended temporarily by Ord. 20, Series 2009 (Section 9-1-4) – Expired 12.31.09
Sections 9-1-5-D and E, and Section 9-1-4-C were added temporarily by Ord. 9, Series 2018, and extended by Ordinance No. 6, Series 2020 sections shall lapse and be of no further effect after 6.30.19