



ORDINANCE NO. 6025

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE TITLE 15 TO ADD NEW LANGUAGE FOR THE IMPLEMENTATION OF A CITYWIDE STORM DRAINAGE SYSTEM DEVELOPMENT CHARGE.

WHEREAS, the Albany City Council is complying with the provisions of Oregon Revised Statutes (ORS) 223.297 through 223.316; and

WHEREAS, the Albany City Council advertised and provided notice as required by law and has had a public hearing concerning the establishment of a Storm Drainage System Development Charge (SDC); and

WHEREAS, the said hearing on the 8th day of November 2023 was held to give parties an opportunity to be heard and to inform the council about the proposal.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Title 15 of the Albany Municipal Code is hereby amended, as shown in bold type for additions and strikethrough text for deletions:

15.16.020 Definitions.

As used in this chapter, except where the context otherwise requires, the words and phrases have the following meaning:

- (1) "Capital improvement(s)" means facilities or assets used for any of the following:
 - (a) Water supply, storage, treatment and distribution; or
 - (b) Sanitary sewers, including collection, transmission, treatment and disposal; or
 - (c) Transportation, including streets, sidewalks, bikeways, traffic signals and signage, and street drainage collection systems.
- (2) "Development" means the act of making a manmade change to improved or unimproved real estate (e.g. constructing a building or conducting a 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.
- (3) "Improvement fee" means a fee for costs associated with capital improvements to be constructed after the date the ordinance codified in this chapter becomes effective.
- (4) "Qualified public improvements" means a capital improvement that is required as a condition of development approval, identified in the plan adopted pursuant to AMC 15.16.060(2) and either:
 - (a) Not located on or contiguous to property that is the subject of development approval (as used in this definition, "contiguous" means in a public way which abuts); or
 - (b) 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.
- (5) "Reimbursement fee" means a fee for costs associated with capital improvements constructed or under construction on the effective date of this chapter.
- (6) "Systems development charge" means a reimbursement fee, an improvement fee, or a combination thereof, assessed or collected at any of the times specified in AMC 15.16.070. It shall also include that portion of a water, sanitary sewer, **or storm drainage** 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, the sanitary sewer system, **or storm drainage 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.

15.16.060 Compliance with state law.

(1) The revenues received from the water system development charge shall be deposited to the water improvement fee and/or water reimbursement fee funds. The revenues from the sewer system development charge shall be deposited to the sewer improvement fee and/or reimbursement fee funds. The revenues from the transportation system development charge shall be deposited to the transportation improvement fee and/or reimbursement fee funds. **The revenues from the storm drainage system development charge shall be deposited to the storm drainage improvement fee and/or reimbursement fee funds.** These funds 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.

(2) The capital improvement plan(s) required by State law as the basis for expending revenues from the improvement fees portion of the systems development charge shall be the project lists contained within the most recently adopted water, wastewater, stormwater, and transportation system plans or the project list referenced in the associated methodology.

(3) As provided by State law, the plan or list described in subsection (2) of this section may be modified at any time. If a system development charge will be increased by a proposed modification of the list to include a capacity increasing capital improvement:

(a) The City shall provide, at least 30 days prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice described in AMC 15.16.100(1).

(b) The City shall hold a public hearing if the City receives a written request for a hearing on the proposed modification within seven days of the date the proposed modification is scheduled for adoption.

15.16.070 Collection of charge.

(1) The water system development charge is payable upon issuance of a permit to connect to the water system. The sewer system development charge is payable upon issuance of a permit to connect to the sanitary sewer system. The transportation **and storm drainage** system development charges ~~is~~ **are** payable upon issuance of a building permit for any new construction, including a building permit for a manufactured home park.

(2) If development is commenced or connection is made to the water system, sanitary sewer system, **storm drainage system**, or transportation system without an appropriate permit, the systems development charge is immediately payable upon the earliest date that a permit was required.

(3) The Building Official or the official's designee shall collect the systems development charge from the person responsible for or receiving the benefit of the development. The Building Official or the official's designee shall not issue any permit or allow connection described in AMC 15.16.070 (1) until the charge has been paid in full or until provision for installment payments has been made within the limits prescribed in AMC 15.16.070(5).

(4) A systems development charge paid hereunder shall apply to the particular lot or tract for which it is issued. Any changes of use which require additional connections or intensification of use to the water, sanitary sewer, **storm drainage**, or transportation system shall cause an additional systems development charge to be paid. The owner of the property shall be given credit only for those systems development charges theretofore paid involving the same parcel of property. Where a structure which is serviced by capital improvements is destroyed by fire, flood, wind, or act of God, no systems development charge shall be imposed for a replacement of the structure, provided the use thereof is not intensified.

(5) The obligation to pay the unpaid systems development charge and interest thereon shall be secured. Acceptable security to insure payment includes: property, bond, deposits, letter of credit, or the obligor may request a lien be placed against the property to be developed.

15.16.090 Credits.

(1) When development occurs that must pay a systems development charge under AMC 15.16.050, the systems development charge for the existing use shall be calculated and if it is less than the systems development charge for the proposed use, the difference between the systems development charge for the existing use and the systems development charge for the proposed use shall be the systems development charge required under AMC 15.16.050. If the change in use results in the systems development charge for the proposed use being less than the systems development charge for the existing use, no systems development charge shall be required; however, no refund or credit shall be given.

(2) A credit against the improvement fee portion of the systems development charge shall be given for the cost of a qualified public improvement associated with development.

(a) The credit provided for in this section shall be only for the improvement fee charged for the type of improvement being constructed, and credit for qualified public improvements under AMC 15.16.020(4)(b) may be granted only for the cost of that portion of such improvement that exceeds the government units minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under AMC 15.16.020(4)(b).

(b) 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.

(c) Credits shall be used not later than 10 years from the date the credit is given.

(d) Credits shall be established using the method outlined in the transportation system development charge fee resolution or, in the case of water, ~~and sewer~~, **and storm drainage** systems development charges, by Council policy, and shall be included in an agreement signed by the applicant and the City Engineer that states the amount of the credit and the effective date of the agreement.

(3) The Finance Director shall be responsible for all recording and accounting associated with the distribution of credits.

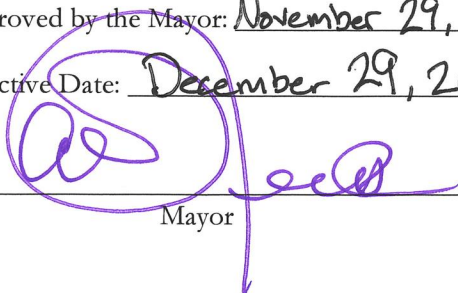
15.16.200 Prohibited connection.

No connections or intensification of use may be made to the sanitary sewer, water, **storm drainage**, or transportation system of the City unless the appropriate systems development charge has been paid or the installment payment method has been applied for and approved.

Passed by the Council: November 29, 2023

Approved by the Mayor: November 29, 2023

Effective Date: December 29, 2023



Mayor

ATTEST:

