

ORDINANCE NO. 13-1004

AN ORDINANCE OF THE CITY OF OREGON CITY AMENDING CHAPTER 13.20 OF THE OREGON CITY MUNICIPAL CODE RELATING TO REPAYMENT OF UNDERCHARGED TRANSPORTATION SYSTEM DEVELOPMENT CHARGES; DECLARING AN EMERGENCY.

WHEREAS, The City of Oregon City ("City") is responsible for constructing streets in the City to ensure the safety of persons and property; and,

WHEREAS, The City has created a system of systems development charges ("SDCs") to be assessed on development to pay for the cost of constructing or providing capacity within the City's street system sufficient to accommodate future users; and,

WHEREAS, The City has adopted an ordinance assessing SDCs as provided in Oregon City Municipal Code Chapter 13.20, but that the ordinance requires amendment in the light of recent developments; and,

WHEREAS, Oregon City Municipal Code Chapter 13.20 requires that SDCs are due and payable at the time of issuance of a building permit; and,

WHEREAS, During the period between May 1, 2009 and December 5, 2012 building permits were issued and certificates of occupancy granted, notwithstanding underpayment of the appropriate transportation SDC amount; and

WHEREAS, When an applicant or developer obtained a building permit, the Developer paid to the City an amount of money for the Transportation SDC (TSDC) as stated by the City; however, the amount of money paid to the City for the TSDC was not consistent with the TSDC adopted in Resolution No. 09-02 and was significantly less than what was required by Resolution No. 09-02.

NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:

Section 1. Chapter 13.20 of the Oregon City Municipal Code is amended to add the following new section:

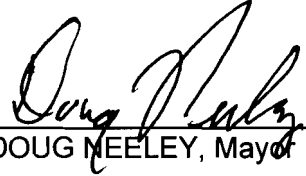
13.20.090 – Undercharged Transportation System Development Charge repayment program

- A. This section shall apply to undercharged Transportation System Development Charges ("TSDC") that were paid as part of building permits issued between May 1, 2009 and December 5, 2012.**
- B. For purposes of this section "undercharged" or "undercharges" means a payment that is less than that provided under the City's TSDC methodology in place at the time the building permit was issued.**

- C. The repayment programs and options of this section are available to all applicants and developers that were impacted by the undercharged TSDC regardless of whether or not the applicant or developer has paid the full amount of the TSDC as of the date of the enactment of this ordinance.**
- D. In cases where the City has issued a building permit but a Certificate of Occupancy permit had not been issued prior to December 5, 2012, an applicant or developer shall have the following repayment options:**
- 1. Pay the TSDC outstanding balance prior to receiving a Certificate of Occupancy and receive a 20% reduction of the TSDC undercharge; or**
 - 2. Enter into a long-term repayment of the total outstanding undercharged TSDC amount. The City will charge a 0% interest rate on the principal for the first 24 months. After 24 months, the standard legal rate will apply.**
- E. In cases where the City has issued a Certificate of Occupancy prior to December 5, 2012, the City will not seek payment of the outstanding TSDC.**
- F. Applicants or developers that where undercharged TSDC are eligible for a long-term SDC deferral interest rate of 2% for the first 12 months for future development projects occurring within the City that are subject to SDC assessment prior to February 7, 2014. After the first 12 months of a deferred payment agreement, the standard legal rate will apply.**
- 1. To qualify for the deferred interest rate under this section, the following criteria shall be met:**
 - a. The long-term deferral of the SDCs at the reduced interest rate shall have been entered into prior to February 7, 2014; and**
 - b. The applicant shall demonstrate that they were undercharged Transportation SDCs and have participated in the Undercharged Transportation System Development Charge Repayment Program in section 13.20.090; and**
 - c. The applicant shall be current on all undercharged SDC payments or shall have paid in full the outstanding balance due.**
 - 2. The City Recorder shall provide the applicant or developer with the appropriate forms, which may include a requirement for security acceptable to the city for the unpaid balance and interest, or a valid consent to lien the affected property, a waiver of all rights to contest the validity of the lien, and the classification of the charge as not within the limits imposed under Oregon Constitution, Article XI, Section 11b.**

Section 2. In order that the City may proceed with collecting undercharged TSDCs, an emergency is hereby declared and this ordinance is and shall be effective immediately upon enactment by the Commission.

Read for the first time at a regular meeting of the City Commission held on the 6th of February 2013, and the forgoing ordinance was finally enacted by the Commission on this 6th day of February 2013.



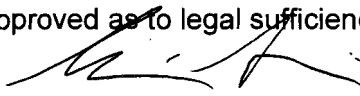
DOUG NEELEY, Mayor

Attested to this 6th day of February 2013:



Nancy Ide, City Recorder

Approved as to legal sufficiency:



City Attorney