

**RESOLUTION NO. 1093
CITY OF PRINEVILLE**

**A RESOLUTION ESTABLISHING SYSTEM DEVELOPMENT CHARGES FOR
SEWER, WATER, AND TRANSPORTATION IN THE CITY OF PRINEVILLE**

WHEREAS, the City of Prineville passed Resolution 1088 establishing regarding System Development Charges for sewer, water, and transportation in the City of Prineville; and

WHEREAS, water and sewer SDCs were based on water meter sizes with no specific rates for constant use of water or for users of large amounts of water; and

WHEREAS, constant and/or large users of water place a great burden on City water and sewer systems; and

WHEREAS, the City desires to amend Resolution 1088 to establish SDCs based not only on water meter size, but also under certain circumstances, the use of large amounts of water.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PRINEVILLE
RESOLVES AS FOLLOWS:**

SECTION 1. GENERAL PROVISIONS

1. This Resolution shall provide for the basic framework, schedule and implementation of SDCs for sewer, water, and transportation in the City of Prineville, Oregon.
2. The fees established by this Resolution are a separate revenue measure apart from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law, except as expressly stated to the contrary.
3. As required by ORS Chapter 223.309 as the basis for said SDCs, the City has prepared and adopted the following Public Facility Master Plans. Said Plans are hereby adopted by reference as if set forth in full herein, and may be modified, revised, amended and/or updated by the City at any time. These Plans are available for public inspection at the office of the City Manager of the City of Prineville in City Hall located at 387 N.E. Third Street, Prineville, Oregon.
 - (a) The City's most recent version of the Transportation System Plan;
 - (b) The City's most recent version of the Water Facility Master Plan; and
 - (c) The City's most recent version of the Wastewater Facility Plan.
 - (d) The City's most recent version of the Public Facilities Plan.
4. The methodologies used to establish SDCs by this Resolution are set forth in the foregoing referenced Public Facility Master Plans and in those documents entitled "Transportation SDC and Water/Sewer Revenue Requirement" dated June 21, 2000, and "Transportation System Development Charge Analysis Findings" dated July 28, 2000, as prepared for the City by Financial Consulting Solutions Group, Inc. These Reports are

attached to this Resolution, are hereby adopted by reference as though set forth in full herein, and may be modified, revised, amended and/or updated by the City at any time.

5. The SDCs provided for in this Resolution shall be effective on and after the date of City Council passage and approval by the Mayor in accordance with the Schedule set forth herein.
6. The water system development charge is payable concurrent with issuance of a permit to connect to the water system. The sewer system development charge is payable concurrent with issuance of a permit to connect to the sanitary sewer system. The transportation system development charge is payable concurrent with issuance of a building permit for any new construction, including a building permit for a manufactured home. However, in the event additional SDCs are owed for water and/or sewer because water consumption exceeds the maximum gallons per day amount, such SDCs shall be paid within 30 days from the date billed by the City.
7. The SDCs established by this Resolution shall be effective until superseded, modified, revised, amended and/or updated by a future Resolution of the City Council.
8. The SDCs established by this Resolution shall be collected, deposited and expended in compliance with ORS Chapters 223.297 to 223.314 (including the provisions for credits for qualified public improvements contained in ORS Chapter 223.304), and other applicable State and City of Prineville laws, rules and regulations.

SECTION 2. DEFINITIONS

1. As used in this Resolution, the following words and phrases, unless the context of this Ordinance, State law, or other City ordinance or regulation requires or provides otherwise, shall have the meaning set forth herein:
 - (1) “Applicant” means the owner or authorized agent of the owner requesting a City Permit.
 - (2) “Average Daily Water Use” means the average (mean) number of gallons of water flowing through a City water meter or meters serving a parcel over a period of not less than 90 days.
 - (3) “Building Permit” shall mean a permit for construction issued by the City-County Building Department pursuant to the structural specialty code and fire and life safety code as adopted by the State of Oregon and in effect within the City.
 - (4) “Capital Improvement” means facilities or assets used for the following:
 - (a) Water supply, treatment, storage and distribution;
 - (b) Waste water collection, transmission, treatment, storage and disposal;
 - (c) Transportation.
 - (5) “City” means the City of Prineville.
 - (6) “Commercial use, industrial use, owner, residential use, and/or structure” shall be given the same meaning or definition given to them by the City’s Land Development Ordinance No. 1057 as amended.

- (7) “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 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.
- (8) “Equivalent Dwelling Unit (EDU)” means the single-family residential dwelling has been selected as the basic unit defined as Equivalent Dwelling Unit (EDU). Every other land use is converted to EDUs.
- (9) “Improvement fee” means a fee for costs associated with capital improvements to be constructed.
- (10) “Peak Hour Vehicle Trips” means the amount of vehicle trips, which occur during the peak period for traffic analysis, typically 4-6 PM.
- (11) “Qualified Public Improvement” means a capital improvement that is required as a condition of development approval, identified in one or more of the Plans referenced in Subsection 3 of Section 1 of this Resolution and either is:
- (a) Not located on or contiguous to property that is the subject of development approval; 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 development fee is related.
- (12) “Reimbursement fee” means a fee for costs associated with capital improvements associated with capital improvements already constructed or under construction at the time the applicable fee is established, and for which the City determines that capacity exists.
- (13) “System Development Charge” or “SDC” means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or concurrent with issuance of a development permit, building permit or connection to the capital improvement.

SECTION 3. SYSTEM DEVELOPMENT CHARGE IMPLEMENTATION AND FEE SCHEDULE

1. System Development Charges (SDCs) shall be effective within the City of Prineville using rates established and authorized by the City Council.
2. SDCs assigned to those periods ending in a fiscal year (e.g. FY2007) shall be effective on and after the beginning date of each respective fiscal year (e.g. July 1, 2007).

SECTION 4. SYSTEM DEVELOPMENT CHARGES FOR SEWER AND WATER

1. Except as otherwise provided for in this Resolution, the SDC shall be made for each connection to the city's sewer or water system on the basis of equivalent dwelling units (EDUs) as that term is defined in this Resolution.
2. The rate of the SDC for water and sewer systems development will be based on the number of EDUs defined hereinafter in this section.
3. Except as otherwise provided for in this Resolution or the authorizing Ordinance No. 1111 as amended, the applicable SDC charge shall be paid concurrent with the issuance of a building permit for new construction or placement permit for a manufactured home, or, in the case of a new business in an existing building, at the time a building permit is issued or at the time a change of address is provided on an existing business or issuance of a land use permit for a new business. In the event there is development without the issuance of a building permit, the SDC shall be paid concurrent with connection to City facilities and prior to any construction associated with the development plan approved by the City. For computation of the SDC, the applicable Equivalent Dwelling Unit fee shall be multiplied by the number of Equivalent Dwelling Units, determinable by the following chart. The minimum number of Equivalent Dwelling Units is one. Partial units will be charged as one (1) EDU.

EQUIVALENT DWELLING UNITS (EDUs)

A. Residential:

(1) A single family dwelling on a parcel is one EDU if there is one 3/4" water meter serving the parcel. If the water meter serving the parcel is larger than 3/4" the number of EDUs shall be determined by the greater of the water meter size or maximum gallons per day according to the chart in B. below.

(2) EDUs for multi-family residential use including, but not limited to duplexes, manufactured or mobile home parks, and apartments shall correspond to the size of the water meter or water meters serving the parcel or the maximum gallons of water per day delivered to the parcel upon which the multi-family use is located as shown in B. below.

B. EDUs for single family dwellings served by a water meter larger than 3/4", multi-family residential use, and non-residential uses, including, but not limited to institutions (churches, schools, nursing homes, etc.), commercial, industrial, and all other uses not previously described, shall be based on the size of the water meter or water meters serving the parcel according to the following chart. However, if the average daily water use exceeds the maximum gallons per day on the following chart, the owner of the parcel upon which the excess water use occurs shall pay additional water and sewer SDCs calculated as follows:

(1) For water SDCs: The maximum gallons per day based on the corresponding meter size shall be deducted from the average daily water use. The difference will be divided by 810. The quotient will be rounded up to the next whole number, which number shall be the additional number of EDUs which the parcel owner shall pay to the City at the then current SDC rate.

(2) For sewer SDCs: The maximum gallons per day based on the corresponding meter size shall be deducted from the average daily water use. The difference will be divided by 260. The quotient will be rounded up to the next whole

number, which number shall be the additional number of EDUs which the parcel owner shall pay to the City at the then current SDC rate.

WATER

<u>Water Meter Size</u>	<u>Number of EDUs</u>	<u>Maximum Gallons Per Day</u>
3/4"	1	810
1"	2.5	2,025
1.5"	5	4,050
2"	8	6,480
3"	16	12,960
4"	25	20,250
6"	50	40,500

SEWER

<u>Water Meter Size</u>	<u>Number of EDUs</u>	<u>Maximum Gallons Per Day</u>
3/4"	1	260
1"	2.5	650
1.5"	5	1,300
2"	8	2,080
3"	16	4,160
4"	25	6,500
6"	50	13,000

4. If more than one water meter serves a parcel the total EDUs and the total maximum gallons per day shall be determined according to the chart in B., above by adding together the EDUs and maximum gallons per day corresponding to the size of each water meter serving the parcel.
5. If the average daily water use on any parcel is not over one percent of the maximum gallons per day corresponding to the water meter size serving the parcel, the City shall not charge additional SDCs.
6. If a parcel owner provides proof by metering or other methods acceptable to City the number of gallons per day of waste water being discharged into the City’s sewer system, that number rather than the average daily water use shall be used when determining the additional sewer SDCs pursuant to Section 4 3. B. (2).
7. When a water meter size is increased an EDU credit equal to the number of EDUs corresponding to the replaced water meter shall be allowed. After deducting the credit, the difference in EDUs shall be multiplied by the current water SDC rate for the total water SDC and the difference shall also be multiplied by the current sewer SDC rate for the total sewer SDC. No refunds will be granted or credits allowed if a water meter size is decreased.

SECTION 5. SYSTEM DEVELOPMENT CHARGES FOR TRANSPORTATION

1. Except as otherwise provided for in this Resolution or in the authorizing Ordinance No. 1111 as amended, a transportation SDC is imposed on all new or expansion developments

requiring or utilizing City transportation facilities. This charge is imposed on all development concurrent with the actual issuance of a building permit or in the case of a manufactured home in a manufactured home park prior to the actual issuance of a placement permit. In the event there is development without the issuance of a building permit, the SDC shall be paid concurrent with any construction associated with the land use development plan approved by the City.

2. The rate of the charges for transportation systems development shall be based on the peak hour vehicular trip generation as set forth in the document entitled "Trip Generation" put forth by the Institute of Transportation Engineers, alternatively the City Planning Director may also consider alternative methods for trip calculations based on other industry approved methodology.
3. Except as otherwise provided for in Section 1.6 of this Resolution subject to City approval, the SDC fee shall be paid concurrent with the issuance of a building permit for new construction or, in the case of a new business in an existing building or the expansion of an existing use, at the time a building or land use permit is issued that results in a change or expansion in use that impacts the number of individuals in the building and/or the capacity. Except as otherwise provided for in this Resolution or the authorizing Ordinance No. III I as amended, for a manufactured or mobile home in a manufactured or mobile home park, the SDC fee shall be paid concurrent with the issuance of a placement permit or connection to City sewer and/or water facilities or services.

SECTION 6. CREDITS AGAINST SDC FEES

1. In the case of an Improvement SDC fee, credits against such applicable SDC fees and refunds shall be provided for the construction of a qualified public improvement as provided for by ORS Chapters 223.297 to 223.314 and City Ordinance.
2. Notwithstanding the provisions of this section, a special agreement has been approved by the City for the East 3rd Street and Peters Road Local Improvement Districts, said agreement having been set forth as Attachment "A" to City of Prineville Resolution No. 1059.
3. SDC Credit or refund shall be a credit or refund against only the SDC fee applicable to that improvement (e.g. street SDC fees for street improvements, water SDC fees for water improvements, or sewer SDC fees for sewer improvements).
4. Once an SDC Credit or refund is determined to apply to a qualified public improvement, the developer/owner shall enter into an agreement with the City defining the extent of the credit or refund and the manner in which the credit shall be applied to building permits applicable to that project or refunded.
5. SDC credit or refunds on building permits shall be allowed within ten (10) years after the completion and acceptance of the improvement giving rise to credit or refund unless otherwise approved by the City.
6. There shall be no interest accruing on any SDC credit or refund.

7. There shall be no adjustments made to the amount of any SDC credit as the result of inflation or increase/decreases to the maximum allowable SDC.
8. The City Manager or designee shall establish a procedure to provide for a review of requests for credit or refund made pursuant to this section within 30 days of the date of approval of this Resolution. Said procedures shall be reviewed and approved by the City Council. An applicant making such a request, after following the procedure established by the City Manager or designee and approved by the City Council, shall have the right to have any determination made on the request reviewed by the Council in the manner the Council deems appropriate.

SECTION 7. APPEAL PROCEDURE

1. A person aggrieved by a decision required or permitted to be made by the City Manager or the designee thereof under these provisions or a person challenging the propriety of an expenditure of SDC revenues may appeal the decision or the expenditure to the City Council by filing a written request with the City Manager or designee thereof, or the expenditure from which the person appeals
2. An appeal of a decision regarding an assigned SDC fee or a credit or a refund thereto may be appealed to the City Council by filing a written request with the City Recorder within ten (10) days from the date of the decision, describing with particularity the decision from which the person appeals, the sets forth in detail the specific relief requested, and substantiates the basis for the request. The Council shall, at its next regularly scheduled Council meeting within not less than 10 days or more than 21 days of the receipt of such appeal, hear and consider the appeal. The Council may affirm, modify, extend, or overrule said decision in a manner that is consistent with the applicable provisions of this document and/or State Law. The Council decision on the appeal shall be set forth in writing within 21 days of the date of the hearing thereon. The decision of the Council shall only be reviewed as provided in ORS 34.010 to 34.100, and not otherwise.
3. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure. The Council shall, at its next regularly scheduled Council meeting within not less than 10 days or more than 21 days of the receipt of such appeal, hear and consider the appeal. The Council decision on the appeal shall be set forth in writing within 21 days of the date of the hearing thereon. The decision of the Council shall only be reviewed as provided in ORS 34010 to 34.100, and not otherwise. After hearing evidence presented by the appellant and the City Manager and the designee thereof (as applicable), the Council shall determine whether the City Manager's or designee's decision or the expenditure is in accordance with this Resolution and the provisions of ORS 223.297 to 223.3 14 and may affirm, modify, or overrule the decision. If the Council determines that there has been an improper expenditure of SDC revenues, the Council shall direct that a sum equal to the misspent amount shall be transferred from the appropriate facility fund(s) within one year to replace the misspent amount.

SECTION 8. PENALTIES

The maximum fine for violation of any provision of this Resolution is \$500.

SECTION 9. REPEAL

This Resolution is intended to replace Resolution No. 1088 and therefore, Resolution No. 1088 is hereby repealed.

SECTION 10. SEVERABILITY

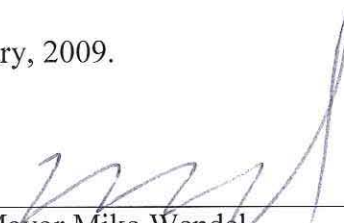
Findings by any court of competent jurisdiction that any provision of this Resolution is unconstitutional or invalid shall not invalidate any other provision or the remaining provisions of this Resolution.

SECTION 11. ENACTMENT

This Resolution shall be in full force and effect on and after February 10, 2009.

Passed by the City Council this 10th day of February, 2009.

Signed by the Mayor this 10th day of February, 2009.



Mayor Mike Wendel

ATTEST:



Wayne Van Matre, Interim City Manager / City Recorder