

Title 13
PUBLIC IMPROVEMENTS

Chapters:

13.10 LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

- 13.10.010 Initiating Improvements
- 13.10.020 Engineer=s Report
- 13.10.030 Action on Engineer=s Report
- 13.10.040 Resolution and Notice of Hearing
- 13.10.050 Manner of Doing Work
- 13.10.060 Hearing
- 13.10.070 Calls for Bids
- 13.10.080 Assessment Method and Alternative Methods of Financing
- 13.10.090 Assessment Ordinance
- 13.10.100 Notice of Assessment
- 13.10.110 Lien Record and Foreclosure Proceedings
- 13.10.120 Error in Assessment Calculation
- 13.10.130 Supplemental Assessments
- 13.10.140 Rebates
- 13.10.150 Remedies
- 13.10.160 Abandonment of Proceedings
- 13.10.170 Curative Provisions
- 13.10.180 Reassessment
- 13.10.190 Owner of Property Responsible for Payment of L.I.D. Charge
- 13.10.200 Billing Shall Be Semi Annual
- 13.10.210 Delinquent Payment Remedies
- 13.10.220 Effective Date

13.20 ESTABLISHMENT OF SYSTEM DEVELOPMENT CHARGE FOR CAPITAL IMPROVEMENTS

- 13.20.010 Purpose
- 13.20.020 Scope
- 13.20.030 Definitions
- 13.20.040 Imposition of System Development Charge
- 13.20.045 Imposition of Annual Cost of Living Process
- 13.20.050 Authorized Expenditures
- 13.20.060 Expenditure Restrictions
- 13.20.070 Capital Improvement Plan
- 13.20.080 Payment of System Development Charge
- 13.20.090 Installment Payment
- 13.20.100 Exemptions
- 13.20.110 Segregation and Use of Revenues
- 13.20.120 Appeal Procedure

Tangent - Public Improvements

- 13.20.130 Prohibited Connection
- 13.20.140 Construction
- 13.20.150 Repeal

13.30 CAPITAL IMPROVEMENTS

- 13.30.010 Purpose

13.50 PUBLIC WORKS CONSTRUCTION STANDARDS

- 13.50.010 Purpose
- 13.50.015 Principles of Acceptability
- 13.50.020 Special Conditions
- 13.50.030 Adoption

13.55 PUBLIC WORKS DESIGN STANDARDS

- 13.55.010 Purpose
- 13.55.020 Adoption

13.60 COMMUNITY WATER SYSTEMS

- 13.60.010 Purpose
- 13.60.020 Subdivision Application
- 13.60.030 Construction Standards
- 13.60.040 Operation and Maintenance
- 13.60.050 Provision Apply Retroactive
- 13.60.060 Effective Provision

Chapter 13.10
LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

Sections:

13.10.010	Initiating Improvements
13.10.020	Engineer=s Report
13.10.030	Action on Engineer=s Report
13.10.040	Resolution and Notice of Hearing
13.10.050	Manner of Doing Work
13.10.060	Hearing
13.10.070	Calls for Bids
13.10.080	Assessment Method and Alternative Methods of Financing
13.10.090	Assessment Ordinance
13.10.100	Notice of Assessment
13.10.110	Lien Record and Foreclosure Proceedings
13.10.120	Error in Assessment Calculation
13.10.130	Supplemental Assessments
13.10.140	Rebates
13.10.150	Remedies
13.10.160	Abandonment of Proceedings
13.10.170	Curative Provisions
13.10.180	Reassessment
13.10.190	Owner of Property Responsible for Payment of L.I.D. Charge
13.10.200	Billing Shall Be Semi Annual
13.10.210	Delinquent Payment Remedies
13.10.220	Effective Date

13.10.010 Initiating Improvements.

- (1) When the Council considers it necessary to require that improvements to a street, sewer, water, sidewalk, parking, curbing, drain or other public improvement defined in O.R.S. 223.387 be paid for in whole or in part by special assessment according to benefits conferred, the Council shall declare by resolution that it intends to make the improvement and direct the City Engineer to make a survey of the improvement and file a written report with the Recorder.
- (2) When owners of two-thirds of the property that will benefit by improvements defined in subsection (1) request by written petition that the Council initiate an improvement, the Council shall declare by resolution that it intends to make the improvement and direct the City Engineer to make a survey of the improvement and file a written report with the Recorder. (86 -01 ' 1, 1986)

13.10.020 Engineer=s Report.

Unless the Council directs otherwise, the Engineer =s report shall contain the following:

Tangent - Public Improvements

- (1) A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for payment of the cost;
- (2) Plans, specifications and estimates of work to be done. If the proposed project is to be carried out in cooperation with another governmental agency, the Engineer may adopt plans, specifications and estimates of that agency;
- (3) An estimate of probable cost of the improvement, including legal, administrative and engineering costs;
- (4) An estimate of unit cost of the improvement to the benefitted properties, per square foot, per front foot or another unit of cost;
- (5) A recommendation concerning the method of assessment to be used to arrive at a fair apportionment of the whole or a portion of the cost of the improvement to benefitted properties;
- (6) A description of each lot, parcel of land, or portion of land to be benefitted, with names of the record owners and, when readily available, names of contract purchasers as shown on books and records of the Linn County Tax Department. To describe each lot or parcel of land under provisions of this section, it shall be sufficient to use the tax account number assigned to the property by the Tax Department or the book and page designations shown on books and records of the Linn County Clerk; and
- (7) A recommendation on the rate of interest to be paid on assessments bonded under the Bancroft Bonding Act and O.R.S. Chapter 223. (Ord. 86-01 ' 2, 1986)

13.10.030 Action on Engineer=s Report.

After the Engineer=s report is filed with the Recorder, the Council may by resolution approve the report, modify the report and approve it as modified, require the Engineer to supply additional or different information for the improvement or abandon the improvement. (Ord. 86 -01 ' 3, 1986)

13.10.040 Resolution and Notice of Hearing.

After the Council has approved the Engineer =s report as submitted or as modified, the Council shall declare by resolution that it intends to make the improvement and direct the Recorder to give notice of the Council=s intent by two publications, one week apart, in a newspaper of general circulation in the city. The notice shall contain the following:

- (1) That the report of the Engineer is on file in the Office of the Recorder and is subject to public examination;
- (2) That the Council will hold a public hearing on the proposed improvement on a specified date, which shall be not less than ten days after the first publication of notice, at which objections and remonstrances to the improvement will be heard by the Council, and that the improvement will be abandoned or suspended for not less than six months if written remonstrances are filed before or during the hearing by owners of 60% of the property specially benefitted, measured by either area or assessed valuation; and
- (3) A description of the property to be benefitted by the improvement, owners of the property as shown on books and records of the Linn County Tax Department, and the Engineer =s estimate of total cost of the improvement to be paid by special assessments to benefitted properties. For purposes of this section it shall be sufficient to describe the property to be benefitted by the tax account number assigned to the property and used by the Linn County Tax Department or the book and page designations shown on books and records of the Linn County Clerk. (Ord. 86-01 ' 4, 1986)

13.10.050 Manner of Doing Work.

The Council may provide in the improvement resolution that the construction work may be done in whole or in part by the city, by contract, by another governmental agency or by a combination thereof . (Ord. 86-01 ' 5, 1986)

13.10.060 Hearing.

If written remonstrances are less than the amount required to defeat the proposed improvement as provided in Section 51 of the City Charter, the Council may, by motion, at the time of the hearing or within 60 days thereafter, on the basis of written remonstrances and oral objections, order the improvement carried out in accordance with the resolution or, if the project was initiated by Council motion and not by petition of property owners, abandon the improvement . (Ord. 86-01 ' 6, 1986)

13.10.070 Calls for Bids.

The Council may direct the Recorder to advertise for bids for construction of all or part of the improvement project. If part of the improvement work is to be done under contract bids, the Council shall proceed in accordance with procedures of state law for public contracting. (Ord. 86 -01 ' 7, 1986)

13.10.080 Assessment Method and Alternative Methods of Financing.

The Council, in adopting a method of assessing the cost of improvement, may:

- (1) Use any just and reasonable method to determine the extent of an improvement district consistent with the benefits derived.
- (2) Use any just and reasonable method to apportion the sum to be assessed among the benefitted properties.
- (3) Authorize payment by the city of all or part of the cost of an improvement when in the opinion of the Council other means of financing improvements, including federal and state grants -in-aid, sewer charges or fees, revenue bonds, general obligation bonds or other legal means of finance are determined to be appropriate. If other means of finance are used, the Council may levy special assessments according to benefits derived to cover any remaining cost. (Ord. 86 -01 ' 8, 1986)

13.10.090 Assessment Ordinance.

- (1) If the Council determines the public improvement shall be made, when the estimated cost is determined on the basis of the contract award or city departmental cost or after the work is done and the cost has been actually determined, the Council shall decide whether the benefitted property shall bear all or a portion of the cost. The Recorder or other persons designated by the Council shall prepare the proposed assessment for each lot within the assessment district and file the assessments in the Recorder=s Office. (Ord. 86-01 ' 9(1), 1986)
- (2) The notice of the proposed assessment shall be mailed to the owner of each lot proposed to be assessed at the address shown on the Linn County Tax Assessor =s roll. The notice shall state the amount of assessment proposed on the property and fix a date by which time objections shall be filed with the Recorder and hearing held to consider such objections. An objection shall state the grounds for the objection. (Ord. 86-01 ' 9(2), 1986)
- (3) At the hearing the Council shall:

Tangent - Public Improvements

- (A) Consider objections and may adopt, correct, modify or revise the assessment against each lot in the district according to special and peculiar benefits accruing to it from the improvement; and
- (B) By ordinance, spread the assessment. (Ord. 86-01 ' 9(3), 1986)

13.10.100 Notice of Assessment.

- (1) Within ten days after the ordinance levying assessments has been passed, the Recorder shall send a notice of assessment to each owner of assessed property by registered or certified mail and publish notice of the assessment twice in a newspaper of general circulation in the city. The first publication of notice shall be not later than 20 days after the date of the assessment ordinance. (Ord. 86-01 ' 10(1), 1986)
- (2) The notice of assessment shall include the name of the property owner, a description of the assessed property, the amount of the assessment and the date of the assessment ordinance and shall state that interest will begin to run on the assessment and the property will be subject to foreclosure unless the owner either makes application to pay the assessment in installments within ten days after the date of the first publication of notice or pays the assessment in full within 30 days after the date of the assessment ordinance. (Ord. 86-01 ' 10(2), 1986)

13.10.110 Lien Record and Foreclosure Proceedings.

- (1) After the assessment ordinance is adopted, the Recorder shall enter into the docket of liens a statement of the amount assessed on each lot, parcel of land or portion of land, a description of the improvement, names of property owners, and the date of the assessment ordinance. On entry into the lien docket the amounts shall become liens and charges on the lots, parcels of land or portions of land that have been assessed for improvement. (Ord. 86-01 ' 11(1), 1986)
- (2) Any lien against the property resulting from such L.I.D. assessment shall be entered in the city lien docket and shall be superior to all other liens. The lien shall be collectible in the manner provided by O.R.S. 223.205 to 223.290 or as otherwise provided by city ordinance. An error in the name of the owner or in the use of the name of the true owner of such property, or in the failure of the owner to receive notice of the assessment, shall not render the assessment or lien void, but the same shall be a valid and existing lien against the property. (Ord. 89-04 ' 4 1989)
- (3) Thirty days after the date of the assessment ordinance, interest shall be charged at the rate of 2% more than the interest rate in Section 13.10.020(7), and the city may foreclose or enforce collection of assessment liens in the manner provided by state law. (Ord. 86-01 ' 11(3), 1986)
- (4) The city may enter a bid on property being offered at a foreclosure sale. The city bid shall be prior to all bids except those made by persons who would be entitled under state law to redeem the property. (Ord. 86-01 ' 11(4), 1986)

13.10.120 Error in Assessment Calculation.

Claimed error in the calculation of assessments shall be called to the attention of the Recorder, who shall determine whether there has been an error. If there has been an error, the Recorder shall recommend to the Council an amendment to the assessment ordinance to correct the error. On enactment of the amendment, the Recorder shall make the necessary correction in the docket of liens and send a corrected notice of assessment by registered or certified mail. (Ord. 86-01 ' 12, 1986)

13.10.130 Supplemental Assessments.

If an assessment is made before the total cost of the improvement is determined, and if the amount of the assessment is insufficient to defray expenses of the improvement, the Council may declare the insufficiency by motion and prepare a proposed supplemental assessment. The Council shall set a time for hearing objections to the supplemental assessment and direct the City Recorder to publish one notice of the hearing in a newspaper of general circulation in the city. After the hearing the Council shall make just and equitable supplemental assessment by ordinance, which shall be entered in the docket of liens as provided by Section 13.10.110. Notice of the supplemental assessment shall be published and mailed, and collection of the assessment shall be made, in accordance with Sections 13.10.110 and 13.10.120. (Ord. 86 -01 ' 13, 1986)

13.10.140 Rebates.

On completion of the improvement project, if the assessment previously levied on any property is found to be more than sufficient to pay the cost of the improvement, the Council shall determine the excess and declare it by ordinance. When declared, the excess amounts must be entered in the lien docket as a credit on the appropriate assessment. If an assessment has been paid, the person who paid it or that person=s legal representative shall be entitled to payment of the rebate credit. (Ord. 86 -01 ' 14, 1986)

13.10.150 Remedies.

Subject to curative provisions of Section 13.10.170 and rights of the city to reassess as provided in Section 13.10.180, proceedings for writs of review and other appropriate equitable or legal relief may be filed as provided by state law. (Ord. 86-01 ' 15, 1986)

13.10.160 Abandonment of Proceedings.

The Council may abandon proceedings for improvements made under Sections 13.10.010 and 13.10.180 at any time before final completion of the improvements. If liens have been placed on property under this procedure, they shall be canceled, and payments made on assessments shall be refunded to the person who paid them or to that person =s legal representative. (Ord. 86-01 ' 16, 1986)

13.10.170 Curative Provisions.

An improvement assessment shall not be rendered invalid b y reason of:

- (1) Failure of the Engineer=s report to contain all information required by Section 13.10.020.
- (2) Failure to have all the required information in the improvement resolution, assessment ordinance, lien docket or notices required to be publishe d and mailed.
- (3) Failure to list the name of or mail notice to an owner of property as required by this ordinance.
- (4) Any other error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect on the person complaining. (Ord. 86-01 ' 17(1), 1986)

The Council shall have authority to remedy and correct all matters by suitable action and proceedings. (Ord. 86-01 ' 17(2), 1986)

13.10.180 Reassessment.

When an assessment, supplemental assessment or reassessment for an improvement made by the city has been set aside, annulled, declared or rendered void or its enforcement restrained by a court of this state or by a federal court having jurisdiction or when the Council doubts the validity of the assessment,

supplemental assessment, reassessment or any part of it, the Council may make a reassessment in the manner provided by state law. (Ord. 86-01 ' 18, 1986)

13.10.190 Owner of Property Responsible for Payment of L.I.D. Charge.

- (1) The owner of any property subject to an L.I.D. assessment shall be responsible for payment of the L.I.D. charge for that property, notwithstanding the fact that the property may be occupied by a non-owner, if the property is owned by more than one person, each owner shall be jointly and severally liable for payment of the L.I.D. charge.
- (2) Change of ownership or occupancy shall not be cause for reducing or eliminating such charge. (Ord. 89-04 ' 1, 1989)

13.10.200 Billing Shall Be Semi Annual.

The billing shall be semi-annual, with payments due on December 17th and June 17th of each year. (Ord. 89-04 ' 2, 4 1989)

13.10.210 Delinquent Payment Remedies.

- (1) L.I.D. charges shall constitute a debt due the city and a lien upon the property served. If this debt is not paid within ten days after it becomes due and payable, it shall be deemed delinquent. In addition, an administrative charge of \$10 per account for collection of delinquent accounts shall be assessed from the date of delinquency. This administrative charge shall be added to the account and shall accrue interest in the same manner as all other delinquent charges. The interest rate for delinquent accounts shall be the legal rate of interest set for judgments.
- (2) The city shall be entitled to recover attorney fees and costs in the exercise of any remedy in connection with the collection of assessments under this ordinance. (Ord. 89 -04 ' 3, 6 1989)

13.10.220 Effective Date.

This ordinance shall be effective for all billing statements issued on or after June 17, 1989. (Ord. 89 -04 ' 7 1989)

Chapter 13.20
ESTABLISHMENT OF SYSTEM DEVELOPMENT CHARGE
FOR CAPITAL IMPROVEMENTS

Sections:

13.20.010	Purpose
13.20.020	Scope
13.20.030	Definitions
13.20.040	Imposition of System Development Charge
13.20.045	Imposition of Annual Cost of Living Process
13.20.050	Authorized Expenditures
13.20.060	Expenditure Restrictions
13.20.070	Capital Improvement Plan
13.20.080	Payment of System Development Charge
13.20.090	Installment Payment
13.20.100	Exemptions
13.20.110	Segregation and Use of Revenues
13.20.120	Appeal Procedure
13.20.130	Prohibited Connection
13.20.140	Construction
13.20.150	Repeal

13.20.010 Purpose.

The purpose of imposing a system development charge is to charge part of the cost of water, wastewater, drainage, transportation, flood control, parks and recreation facilities upon developments which create or increase the need for these facilities. (Ord. 91 -02, 1991)

13.20.020 Scope.

The system development charge imposed by this ordinance is in addition to any other tax, assessment, charge or fee imposed on development. (Ord. 91 -02 ' 2, 1991)

13.20.030 Definitions.

For purposes of this ordinance, these words and terms mean as follows:

(1) A Capital Improvement. @

(A) A facility or asset used for the following:

- i. Water supply, treatment and distribution;
- ii. Waste water collection, transmission, treatment and disposal;
- iii. Drainage and flood control;
- iv. Transportation including, but not limited to, streets, sidewalks, bicycle paths, streetlights, street trees, public transportation, vehicle parking and bridges; or
- v. Parks and recreation.

Tangent - Public Improvements

- (B) The cost of a capital improvement does not include the costs of its operation or routine maintenance.
- (2) A Capital Improvement Plan. @ A plan that lists capital improvements which may be funded with improvement fee revenues and stating the estimated costs and timing of such improvements. A Capital Improvement Plan @ includes, but is not limited to, any comprehensive capital improvements plan, project-specific plans, such as transportation, parks, sewers, water and the like, that portion of the city comprehensive plan listing approved projects and any modification or successor to these plans.
- (3) A Development. @ The act of conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, dividing land into two or more parcels, or creating or terminating a right of access, which act increases the use of or need for a capital improvement.
- (4) A Improvement Fee. @ A fee for costs associated with capital improvements to be constructed.
- (5) A Qualified Public Improvements. @ A capital improvement which is:
- (A) Required as a condition of residential development approval;
 - (B) Identified in a capital improvement plan; and
 - (C) Not located on or contiguous to a parcel of land which is the subject of the residential development approval.
- (6) A Reimbursement Fee. @ A fee for costs associated with capital improvements already constructed or under construction at the time of the imposition of the fee.
- (7) A System Development Charge. @ A reimbursement fee, an improvement fee or both assessed or collected at the time of increased usage or demand for a capital improvement, at the time of issuance of a development or building permit, or at the time of connection to the capital improvement. System or water system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections with water and sewer facilities. A System development charge @ does not include fees assessed or collected as part of financing a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements imposed by a land use decision. (Ord. 91-02 ' 3, 1991)

13.20.040 Imposition of System Development Charge.

- (1) The City Council may establish by resolution a SDC for any capital improvement. (Ord. 91 -02 ' 4(A), 1991)
- (2) When a systems development charge is established, unless otherwise exempted by the provisions of this ordinance or other local or state law, it shall be imposed upon all new development within the city, and upon all development outside the boundary of the city that connects to or otherwise uses the capital improvement. (Ord. 91 -02 ' 4(B), 1991)
- (3) Any resolution establishing a reimbursement fee shall contain a methodology which considers the cost of existing facilities, prior contributions by existing users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and any other factors deemed relevant by the Council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of existing facilities. (Ord. 91-02 ' 4(C), 1991)

- (4) Any resolution establishing an improvement plan shall contain a methodology which considers the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related. (Ord. 91-02 ' 4(D), 1991)
- (5) Any resolution establishing an improvement fee shall also provide for a credit against such fee for the construction of a qualified public improvement. Such credit shall not exceed the improvement fee or be transferable from one type of improvement fee to another. The Council may adopt policies regulating the transfer of a credit from one development to another. (Ord. 91 -02 ' 4(E), 1991)
- (6) Any resolution establishing an SDC may also provide for other types of credits against the charge. (Ord. 91-02 ' 4(F), 1991)

13.20.045 Imposition of Annual Cost of Living Process.

- (1) An annual COLA review with consumer price index data from the U.S. Department of Labor, Bureau of Labor Statistics, Portland-Salem will be included as an agenda item at a regular Council meeting held in March of each year. At the annual COLA review, the Council will review revenues and expenditures to determine whether:
 - (A) The COLA formula reflects actual cost increases experienced by the city;
 - (B) Whether new fees, charges or expenditures adopted during the prior year should be adopted through the application of COLA formulas; and
 - (C) COLA formulas based on particular indices are appropriate.
- (2) If at the annual review the Council determines that a particular fee, charge or expenditure is not appropriately modified by an adjustment, the Council may remove the particular fee, charge or expenditure from the list of fees, charges or expenditures to which the COLA is applied. Otherwise, the fees, charges or expenditures identified in this ordinance and amendments thereto shall automatically adjust each July 1, and the adjusted fee, charges or expenditures identified in this ordinance and amendments thereto shall be used for budgeting purposes for the next fiscal year. (Ord.2008-01 ' 2)
- (3) In the event a fee, charge or expenditure is enacted in the period prior to each annual COLA Review, the COLA adjustment for that particular fee, user charge or expenditure will be based on the same measure as applied other fees, charges or expenditures unless taken from the list by the City Council as not be appropriate for a COLA adjustment (Ord. 2008 -01 ' 3)
- (4) The consumer price index data from the US Department of Labor, Bureau of Labor Statistics, Portland-Salem Statistics will be used to calculate adjustments to the following fees, charges and expenditures: Wastewater System Development Charges, Transportation System Development Charges, Drainage System Development Charges and Park Capital Development System Development Charges. (Ord. 2008-01 ' 5)

13.20.050 Authorized Expenditures.

- (1) Reimbursement fees shall be spent only on capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of debt for the improvement. (Ord. 91-02 ' 5(A), 1991)

Tangent - Public Improvements

- (2) Improvement fees shall be spent only on capacity-increasing capital improvements, including expenditures relating to repayment of debt for the improvements. An increase in system capacity exists if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees shall be related to current or projected development. (Ord. 91-02 ' 5(B), 1991)
- (3) Notwithstanding subsections (1) and (2) of this section, SDC revenues may be expended on the direct costs of complying with the provisions of this ordinance and O.R.S. 223.297 to 223.314, including the costs of developing SDC methodologies and providing an annual accounting of system development charge expenditures. (Ord. 91-02 ' 5(C), 1991)

13.20.060 Expenditure Restrictions.

- (1) SDCs shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements. (Ord. 91-02 ' 6(A), 1991)
- (2) SDCs shall not be expended for costs of the operation or routine maintenance of capital improvements. (Ord. 91-02 ' 6(B), 1991)
- (3) SDCs may be expended only on capital improvements included in a capital improvement plan. (Ord. 91-02 ' 6(C), 1991)

13.20.070 Capital Improvement Plan Adopted.

Tangent's Capital Improvement Plan, as may be amended from time to time, is incorporated herein by this reference and adopted. All projects listed in the Capital Improvement Plan may be funded with SDCs pursuant to Oregon Laws, 1989, Chapter 449, ' 6. (Ord. 91-02 ' 7, 1991)

13.20.080 Payment of System Development Charge.

- (1) An imposed SDC is due and collectible from the person responsible for or receiving the benefits of the development, upon issuance of:
 - (A) A building permit;
 - (B) A development, zoning or land use permit or authorization;
 - (C) A permit to connect to the water systems; or
 - (D) A permit to connect to the sewer system. (Ord. 91-02 ' 8(A), 1991)
- (2) The city shall not issue such permit or allow such connection until the charge has been paid in full or until provision for installment payments has been made pursuant to Section 13.20.090 of this chapter. (Ord. 91-02 ' 8(B), 1991)
- (3) If development is commenced or connection is made to the water or sewer system without an appropriate permit, the systems development charge is payable upon the earliest date that a permit was required. (Ord. 91-02 ' 8(C), 1991)

13.20.090 Installment Payment.

- (1) When an SDC of \$250 or more is due and collectible, the person responsible for or receiving the benefit of the development may apply for payment in installments, in accordance with the State Bancroft Bonding Act. (Ord. 91-02 ' 9(A), 1991)
- (2) The City Recorder shall provide application forms for installment payments, which shall include security acceptable to the city for the unpaid charge and interest, or a valid consent to lien the affected property and 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, ' 11b. (Ord. 91-02 ' 9(B), 1991)

- (3) The City Recorder shall report to the City Council the amount of the SDC, the dates on which the payments are due, the name of the owner and the description of the parcel. (Ord. 91 -02 ' 9(C), 1991)
- (4) The City Recorder shall docket any lien in the lien docket. From that time the city shall have a lien upon the described parcel for the amount of the unpaid SDC, together with interest on the unpaid balance at the legal rate. The lien shall be enforceable in the manner provided in O.R.S. Chapter 223, and shall have priority over all other liens except a mortgage or other purchase money security interest. (Ord. 91-02 ' 9(D), 1991)

13.20.100 Exemptions.

- (1) Structures and uses established and existing on or before the effective date of this ordinance are exempt from an SDC, except water, sewer and drainage system charges, to the extent of the existing structure or use. Structures and uses affected by this subsection shall pay the applicable water, sewer or drainage system charges upon the receipt of a permit to connect to the water, sewer or drainage system. (Ord. 91-02 ' 10(A), 1991)
- (2) An alteration, addition, replacement or change in non -residential use that does not increase the parcel=s or structure=s use of the capital improvement. (Ord. 91 -02 ' 10(B), 1991)
- (3) Alterations, additions or repairs th at are performed on existing residential units. For purposes of this section, residential units refers to single -family dwellings and duplexes per buildable lot. This exemption does not apply to additions or repairs to existing structures constructed for h ome occupations. (Ord. 91-02 ' 10(C), 1991)
- (4) Accessory buildings for residential units. For purposes of this section, residential units refers to single-family dwellings and duplexes per buildable lot. This exemption does not apply to structures constructed for home occupations or structures which increase the use of the capital improvement. (Ord. 91-02 ' 10(D), 1991)

13.20.110 Segregation and Use of Revenues.

- (1) All revenues derived from imposition of an SDC shall be segregated by accounting practices from all other funds of the city and placed into accounts designated for such moneys. (Ord. 91 -02 ' 11(A), 1991)
- (2) The City Recorder shall provide the City Council with an annual accounting for SDCs, showing the total amount of system development charge revenues collected for each system and the projects funded from each account. (Ord. 91 -02 ' 11(B), 1991)

13.20.120 Appeal Procedure.

- (1) A person aggrieved by a decision of the city made under Sections 13.20.040 to 13.20.110 of this ordinance or challenging the propriety of an expenditure of SDC revenues may appeal the decision or the expenditure to the City Council. Such appeal shall be commenced by filing a written request with the City Recorder describing with particularity the decision or the expendit ure and the basis of the contest. An appeal of an expenditure shall be filed within two years of the date of the alleged improper expenditure. Appeals of any other decision must be filed within ten days of the date of the decision. (Ord. 91 -02 ' 12(A), 1991)
- (2) After providing notice to the appellant, the City Council shall determine whether the decision or

Tangent - Public Improvements

the expenditure is in accordance with this ordinance and state law and may affirm, modify or overrule the decision. A public hearing shall be conducted on the appeal. The City Council shall determine the appeal on the basis of the appellant's written statement and any additional evidence the City Council deems relevant. The decision of the City Council shall be in writing. (Ord. 91-02 ' 12(B), 1991)

- (3) If the City 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 deposited within one year to the credit of the account or fund designated for the systems development charge revenues. The decision of the City Council shall be reviewed only as provided in O.R.S. 34.010 to 34.100. (Ord. 91-02 ' 12(C), 1991)
- (4) A legal action challenging the methodology adopted by the Council pursuant to Section 13.20.040 of this ordinance shall not be filed later than 60 days after the adoption of the resolution. (Ord. 91-02 ' 12(D), 1991)

13.20.130 Prohibited Connection.

No person may connect to the water, sewer or drainage systems of the city or initiate development unless the appropriate SDC has been paid or the installment payment method has been applied for and approved. (Ord. 91-02 ' 13, 1991)

13.20.140 Construction.

The rules of statutory construction and severability contained in O.R.S. Chapter 174 are adopted and by this reference made a part of this ordinance, which shall be construed to carry out the provisions of Oregon Laws, 1989, Chapter 449. (Ord. 91-02 ' 14, 1991)

13.20.150 Repeal.

This ordinance supersedes the existing SDC provisions of the City Code. Ordinances 88-11 and 90-04 are repealed. (Ord. 91-02 ' 15, 1991)

Chapter 13.30
CAPITAL IMPROVEMENTS

Sections:

13.30.010 Purpose

13.30.010 Purpose.

- (1) After reviewing the status of the existing Capital Improvement Plan(s), established and revised by various ordinances over the past 13 years, and being aware of the requirements, definitions and amendments of O.R.S. 223.309: Preparation of plan for capital improvements financed by system development charges, intended by SB 939, as enacted by the 72nd Legislative Session of the State of Oregon. (Ord. 2004-03, 2004)
- (2) Having begun the revision of the currently existing plans, the Council wishes to formalize parts of that new plan into effect at this time by the inclusion of:
 - (A) New projects; or
 - (B) Inclusion by reference to: public facilities plans, master plans or comparable plans that include lists of capital improvements the city intends to fund, in the future, in whole or in part, with revenues from an improvement fee, and the estimated costs, timing and percentage of costs to be funded with revenues from the improvement fee for each improvement, in order to begin the process of creating and/or revising certain system development charges. (Ord. 2004-03, 2004)
- (3) It is therefore ordained by the City Council of the City of Tangent that the Intermediate System Development Plan for the period 2004 to 2010, also known as the City of Tangent's Five -Year Intermediate Capital Improvement Plan for Budget Years 2004 Through 2009, be adopted and made available for view at the Tangent City Hall during working hours until such time as the Council repeals this ordinance with the passage of a new ordinance. (Ord. 2009 -04, 2009 and 2004-03, 2004)
- (4) It is ordained by the City Council of the City of Tangent that Ordinance 2004-03, by which the City adopted the Intermediate Capital Improvement Plan, is amended to extend its effective date through June 30, 2011, unless amended prior to that time with the passage of a new ordinance, and all other aspects of Ordinance 2004-03 shall remain unchanged. (Ord. 2010-05, 2010)

Chapter 13.50
PUBLIC WORKS CONSTRUCTION STANDARDS

Sections:

- 13.50.010 Purpose
- 13.50.015 Principles of Acceptability
- 13.50.020 Special Conditions
- 13.50.030 Adoption

13.50.010 Purpose.

It appears to the City Council that there is a need for uniform material and construction standards under which all public works facilities shall be constructed within the city. Since a set of standards has been presented to the Council by the City Engineer for city projects and as the reference part for public works under the City=s Subdivision and Partitioning Ordinance, the City=s Zoning Ordinance and other ordinances affecting the physical construction of public works facilities with the city. It also appears to the Council that public works construction standards would streamline the administration and construction of public works facilities within the city. (Ord. 1988 -10, 1988)

13.50.015 Principles of Acceptability.

Subdivisions and partitions shall conform with the comprehensive plan and land development code, applicable provisions of other city ordinances, state law and the standards established by this ordinance. Locations and standards related to transportation and community facilities shall be based on the provisions of the adopted comprehensive plan, this ordinance and the city =s adopted Public Works Construction Standards. The City Engineer may approve a modification to the Public Works Construction Standards following a recommendation from the Planning Commission and approval by the City Council to allow such modification. (Ord. 1989-06)

13.50.020 Special Conditions.

- (1) New subdivisions and land partitions under the jurisdiction of the City of Tangent shall comply with the requirements of the city=s Subdivision and Partitioning Ordinance, as adopted by the City Council, or as it may be hereafter amended or superseded.
- (2) The physical requirements for all public works construction within the city shall comply with these standards, unless the standards are duly modified.
- (3) Sections II through IV of these Public Works Standards are set forth to be used in the design of public works facilities in the city. Modifications to these design standards may be approved by the City Engineer following a recommendation by the Planning Commission and approval by the City Council to allow such modification. (Ord. 1989 -06)

13.50.030 Adoption.

Tangent - Public Improvements

The publication entitled "The City of Tangent Public Works Construction Standards", a book containing five sections, which by this reference is incorporated herein as if fully set forth, is hereby adopted by the city as the standards applicable to all public works projects undertaken by, or on behalf of, the city and shall be used as the presumptive basis for all the public works authorized by the city. (Ord. 1988-10, 1988)

Chapter 13.55
PUBLIC WORKS DESIGN STANDARDS

Sections:

- 13.55.010 Purpose
- 13.55.020 Adoption

13.55.010 Purpose.

It appears to the Council that there is a need for uniform design standards under which all public work facilities shall be constructed within the city. A set of standards has been presented to the Planning Commission for review and they have approved the standards. It appears to the Council that public works design standards would streamline the administration and construction of public works facilities within the City. (Ord. 1997-02, 1997)

13.55.020 Adoption.

The publication entitled ACity of Tangent Public Work Design Standards @ a book containing four sections, which is attached as Exhibit A is incorporated herein. (Ord. 1997 -03, 1997, 2006-12)

Chapter 13.60
COMMUNITY WATER SYSTEMS

Sections:

- 13.60.010 Purpose
- 13.60.020 Subdivision Application
- 13.60.030 Construction Standards
- 13.60.040 Operation and Maintenance
- 13.60.050 Provision Apply Retroactive
- 13.60.060 Effective Provision

13.60.010 Purpose.

The City Council has accepted the Water Feasibility Analysis and Water System Master Plan of August 29, 2001 which had recommendations concerning the establishment of a community water system (CWS). The Council also heard testimony on August 24, 2005 and again on September 1, 2005 at public hearings on the proposed 2005 Comprehensive Plan and the setting of Goals and Policies for a water system. The Council acknowledges that 85% of CWSs are small or very small (EPA) and the Tangent Rural Fire Protection District (TRFPD) first response system is built around the concept of the delivery of water to the scene of the fire, and is compatible with a CWS. The city is aware that CWS may require higher initial installation costs to homebuilders, however, the Council concludes that health factors, including the ability to treat the water, are enhanced. In addition, CWSs create adequate pressure for home sprinkler systems to aid in saving lives and/or reduce damages of a quicker response and cessation of a fire. A series of inter-connectable community water systems is compatible with an integral part of the city's vision for providing safe domestic water supplies and the establishment of a CWS complies with the Safe Water Drinking Act of 1976, being 42 U.S.C. 300f *et seq.*, as amended. The establishment of a CWS in new subdivisions that include 15 or more dwellings will prevent the profusion of shallow individual private water wells that increase exposure of contaminants to the aquifer. Also, individual domestic wells are not monitored for water quality, contaminants or may not provide the volume of water necessary for fire safety use of sprinkler fire suppression systems. (Ord. 2005-09, 2005)

13.60.020 Subdivision Application.

As of November 14, 2005, any subdivision application that proposes to establish 15 or more residential lots shall not be approved unless and until the applicant has demonstrated that a CWS will be installed to serve each residential lot, and the system that will be installed is designed to be able to connect to other CWS within the city at such time as the city concludes a connected municipal water system is feasible and appropriate. (Ord. 2005-09 ' 1, 2005)

13.60.030 Construction Standards.

The CWS shall be constructed and maintained in accordance with applicable federal and state regulation, and in accordance with the standards set forth by the City Engineer. (Ord. 2005 -09 ' 2, 2005)

13.60.040 Operation and Maintenance.

A CWS developed as required by this ordinance shall be operated and maintained by the developer and/or Home Owners Association until such time as the system is conveyed to the City for operation and maintenance. The by-laws, and/or covenants, conditions and restrictions (CC&Rs) for the subdivision and the managing entity (e.g. developer/home owners = association) shall include a declaration that the CWS, including any easements or rights of entry necessary to maintain it, shall be transferable to the city at the city's discretion. (Ord. 2005-09 ' 3, 2005)

13.60.050 Provision Apply Retroactive.

The provisions of this chapter also apply to any subdivisions approved prior to the effective date that include a CWS as a condition of approval. (Ord. 2005-09 ' 4, 2005)

13.60.060 Effective provision.

This chapter being immediately necessary for the health and safety of the residents of the City of Tangent, an emergency is hereby declared and this chapter shall take effect immediately. (Ord. 2005-09 ' 5, 2005)