

ORDINANCE NO. 973

AN ORDINANCE OF CITY OF MADRAS AMENDING ORDINANCE NO. 924, AN ORDINANCE ESTABLISHING CERTAIN CITY OF MADRAS SYSTEM DEVELOPMENT CHARGES, TO PROVIDE A CONDITIONAL, PARTIAL WAIVER OF APPLICABLE WASTEWATER (SEWER) SYSTEM DEVELOPMENT CHARGES FOR ESTABLISHED SINGLE-FAMILY RESIDENCES; AND DECLARING AN EMERGENCY.

WHEREAS, City of Madras (“City”) has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow City; and

WHEREAS, City has obtained certain funding assistance from the Oregon Department of Environmental Quality (“Department”) Clean Water State Revolving Fund loan program to expand City’s wastewater (sewer) system; and

WHEREAS, Department and the U.S. Geological Survey have determined that groundwater is vulnerable to nitrate contamination from septic systems; and

WHEREAS, testing and research indicate most of the contamination comes from septic systems (i.e., nutrients from septic systems are seeping into the groundwater that is used as a primary drinking water source); and

WHEREAS, certain owners of established single-family residences have expressed a desire to connect to City’s wastewater (sewer) system but find the construction costs and system development charge(s) (“SDC(s)”) associated with system connection to be prohibitive; and

WHEREAS, Sections 4 and 6 of City Ordinance No. 929 (the “Sewer System Ordinance”) require, in pertinent part, all property used for human occupancy (unless otherwise granted a waiver) to connect to City’s wastewater (sewer) system if the system is within three hundred (300) feet of the property line, at the owner’s cost and expense; and

WHEREAS, Sections 7 and 13 of City Ordinance No. 924 (the “SDC Ordinance”) require, subject to certain deferred/installment payment agreements, that the then-applicable wastewater (sewer) SDCs be paid upon issuance of a permit or approval to connect to City’s wastewater (sewer) system; and

WHEREAS, except as otherwise provided under Section 12.8 of the SDC Ordinance, the SDC Ordinance does not expressly provide City authority to waive and/or reduce applicable wastewater (sewer) SDCs for established single-family residences; and

WHEREAS, the Madras City Council (the “Council”) finds it necessary to amend the SDC Ordinance to authorize and provide a conditional, partial waiver of applicable wastewater (sewer) SDCs to support established single-family residence connection to City’s wastewater (sewer) system and promote expansion of the system.

NOW, THEREFORE, the City of Madras ordains as follows:

1. Findings. The above-stated findings are hereby adopted.

2. Purpose. The purpose of this Ordinance No. 973 (this “Ordinance”) is to amend the SDC Ordinance to authorize and provide a conditional, partial waiver of applicable wastewater (sewer) SDCs for certain established single-family residences.
3. Amendment. Section 12 of the SDC Ordinance is amended to add the following Section 12.9:

“12.9 City obtained certain funding assistance from the Oregon Department of Environmental Quality Clean Water State Revolving Fund loan program (the “Funding”) to expand City’s wastewater (sewer) system. Subject to the terms and conditions contained in this Ordinance, City will provide a conditional, partial exemption (the “Established Residence Exemption”) of City’s wastewater SDCs for qualifying and eligible established single-family homes (described below) that connect to City’s wastewater (sewer) system subject to the following terms and conditions:

12.9.1 Properties eligible for the Established Residence Exemption consist of each single-family lot which has been improved with the construction of a permitted and lawfully occupied single-family dwelling unit as of August 1, 2022 located within three hundred (300) feet of City’s wastewater (sewer) system.

12.9.2 The owner of each eligible property will receive a one-time, fifty percent (50%) exemption of the then-applicable wastewater SDC amount subject to continued and available Funding.

12.9.3 To be eligible and qualify for the Established Residence Exemption, the owner of the eligible property must, in addition to performing or satisfying all other conditions City may reasonably impose, pay and/or perform the following: (a) the owner must have applied for and obtained a permit from City to connect to City’s wastewater (sewer) system; (b) the owner must have paid in full all applicable City sewer connection permit and related fees; and (c) the owner must pay in full the remaining balance of all applicable SDCs concerning the owner’s connection to City’s wastewater (sewer) system (i.e., the balance remaining after the Established Residence Exemption is applied).

12.9.4 The City Council will review and evaluate the Established Residence Exemption program (including the partial SDC exemption) established under this Section 12.9 (the “Program”) from time to time. Notwithstanding anything contained in this Ordinance to the contrary, City may suspend and/or repeal the Program at any time and from time to time through City Council resolution.

4. Miscellaneous. This Ordinance is hereby made part of the SDC Ordinance. The provisions of the SDC Ordinance that are not amended or modified by this Ordinance remain unchanged and in full force and effect. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word “or” is not exclusive. The words “include,” “includes,” and “including” are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. The provisions of this Ordinance are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such

invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the Council to cure editorial and/or clerical errors. Nothing in this Ordinance affects the validity of any criminal or civil enforcement actions commenced prior to the adoption of this Ordinance; all City ordinances existing at the time that such actions were filed will remain valid and in full force and effect for purposes of those actions.

5. Emergency Declaration. Council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health, and safety of City's citizens. Therefore, an emergency is hereby declared to exist. This emergency Ordinance will be in full force and effect upon its passage and adoption by the Council and signing by the mayor.

APPROVED AND ADOPTED by the City Council of the City of Madras and signed by the mayor this 13th day of December, 2022.

Ayes: _____
Nays: _____
Abstentions: _____
Absences: _____
Vacancies: _____

Richard Ladeby, Mayor

ATTEST:

Lysa Vattimo, City Recorder