



City Hall  
206 N. Main St.  
Toledo, Oregon 97391  
**6:00 p.m.**

TOLEDO CITY COUNCIL  
**Work Session – also via Zoom Meeting Platform**  
May 28, 2025

**Virtual Meeting:** The City Council will hold the meeting for the City Council and staff in person as well as through the Zoom video meeting platform. The public is encouraged to attend the meeting electronically. Visit the meetings page on the city website for meeting login information.

**Public Comments:** The City Council may take limited verbal comments during the meeting. Written comments may be submitted by email to [lisa.figueroa@cityoftoledo.org](mailto:lisa.figueroa@cityoftoledo.org) 3:00 p.m. the day of the meeting to be included in the record. Comments received will be shared with the City Council and included in the record.

1. **Call to Order, Pledge of Allegiance and roll call**
2. **Visitors/Public Comment**  
(The public comment period provides the public with an opportunity to address the City Council regarding items not on the agenda. Please limit your comments to three (3) minutes).
3. **Discussion/Decision Items**
  - Ordinance No. 1423, an Ordinance providing incentives for multifamily affordable housing, creating Toledo Municipal Code Chapter 13.44 – Affordable Housing, and Amending Toledo Municipal Code Chapter 13.24, and declaring an Emergency
  - Motion to approve the City Manager Pro Tem's decision of employment termination
4. **Work Session**
  - Discussion of street lighting fees
5. **Reports and Comments**
  - Issue Tracker
  - Committee updates
6. **Adjournment**

Comments submitted in advance are preferable. Comments may be submitted by e-mail at [lisa.figueroa@cityoftoledo.org](mailto:lisa.figueroa@cityoftoledo.org). The meeting is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting by calling city offices at (541) 336-2247.

# CITY OF TOLEDO REQUEST FOR COUNCIL ACTION

|                                                                       | Meeting Date:                            | Agenda Topic:                                                                                                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                        | <del>June 26, 2024</del><br>May 28, 2025 | Ordinance No. 1423, an Ordinance providing incentives for multifamily affordable housing, creating Toledo Municipal Code Chapter 13.44 – Affordable Housing, and Amending Toledo Municipal Code Chapter 13.24, and declaring an Emergency |
| Council Goal:                                                                                                                                          | Agenda Type:                             |                                                                                                                                                                                                                                           |
| Promote development of housing resources through programs such as rehabilitation loans, non-profit projects and lower barriers for private development | Decision Items                           |                                                                                                                                                                                                                                           |
| Prepared by:                                                                                                                                           | Reviewed by:                             | Approved by:                                                                                                                                                                                                                              |
| City Attorney M. Adams                                                                                                                                 | City Manager Doug Wiggins                | City Manager Doug Wiggins                                                                                                                                                                                                                 |

## Recommendation:

Based on testimony and evidence received in this public hearing, I make a motion to adopt (with specified changes, if any): **“An Ordinance of the Toledo City Council providing incentives for multifamily affordable housing, creating Toledo Municipal Code Chapter 13.44 – Affordable Housing, and Amending Toledo Municipal Code Chapter 13.24, and declaring an Emergency.”**

I make a second motion, to adopt, by reading title twice: (Re-read bold above).

## Background:

This ordinance is based on ORS 197A.445 and 197A.465. It has the effect of establishing the sales or rental price for a portion of a new multifamily structure, or that requires a portion of the new multifamily structure to be designated for sale or rent as affordable housing. For each multifamily residential structure, defined as three or more housing units sharing at least one wall (see 13.44.020(D)), this ordinance requires that at least 20 percent of housing units within a multifamily structure to be sold or rented as affordable housing at or below-market rates (see 13.44.030(B)), or the builder or developer has the option to pay an In-Lieu Fee (see 13.44.030(B)). Although the authority in the ORS provides that the city can only require 20 percent, builders and developers can voluntarily agree to increase the percentage, in a public hearing (see 13.44.030(B)). Instead of going before the Planning Commission, builders and developers will come before the City Council in a Public Hearing (see 13.44.050), which is not a land use decision and not appealable to the Land Use Board of Appeals (LUBA) (see 13.44.050(B)). For those builders and developers that voluntarily elect to build at least 20 percent of a structure as affordable housing (but not for those that elect to pay the In-Lieu Fee), after a Public Hearing, the Council may grant: (1) A waiver for SDCs, based on percentage of units designated as affordable housing (see 13.44.030(a)); Regardless of percentage of units, if builder or developer is a non-profit entity whose primary purpose is to build affordable housing, the City Council can waive all SDCs, or waive a partial amount and defer the rest (see 13.44.030(a)); A deferral of SDCs, to the time of sale or actual occupancy (see 13.44.040(A)); Authorize whole or partial land use waivers and reductions (see 13.44.040(B)); Allow qualification of full or partial exemption from ad valorem property taxes, if they qualify under state states that define 60% as low income, but using 80% definition (see 13.44.040(C)); Grant density adjustments, allowing up to 150% of what is normally allowed (see 13.44.040(D)(1)); Grant modification of height, floor area, or other site specific requirements, including design features and cottage cluster requirements (see 13.44.040(D)(2)), and other financial incentives (see 13.44.040(D)(3)). All findings and negotiations are memorialized in a Resolution approved by Council (see 13.44.050(A)), recorded in an instrument, real property covenants or deed restrictions, contract, and lien (see 13.44.060(A)-(C)).

**CITY OF TOLEDO**  
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This ordinance also allows affordable housing outright if the property is: (1) Owned by a public body, a non-profit corporation that is organized as a public benefit corporation whose primary purpose is the development of affordable housing, a housing authority, or a manufactured dwelling park nonprofit cooperative; (2) Zoned for commercial use, to allow religious assembly, used for public services, or in the Public Lands Zone (3) Zoned for industrial uses, but only if the property is publicly owned, adjacent to lands zoned for residential uses or schools, and not specifically designated for heavy industrial uses; (4) Residential zones, where the developer or non-profit corporation at least meets the 20% affordable housing requirement or pays the In-Lieu fee. Under the preceding (1) and (2), the City may not require a zone change or conditional use permit, at any time (see 13.44.050(D)).

Staff has complied with the City Charter, Chapter XI, Section 31, for the adoption of ordinances.

| <b>Fiscal Impact:</b> | <b>Fiscal Year:</b> | <b>GL Number:</b> |
|-----------------------|---------------------|-------------------|
| <b>Unknown</b>        | <b>2023-2024</b>    | <b>N/A</b>        |

**Attachment:**

1. Ordinance No. 1423

*Note: initial discussions from City Council held on June 26, 2024 (ordinance discussion) and July 24, 2024 (affordable housing discussion).*

**CITY OF TOLEDO  
ORDINANCE NO. 1423**

**AN ORDINANCE OF THE TOLEDO CITY COUNCIL PROVIDING INCENTIVES FOR  
MULTIFAMILY AFFORDABLE HOUSING, CREATING TOLEDO MUNICIPAL CODE  
(TMC) CHAPTER 13.44 – AFFORDABLE HOUSING, AMENDING TOLEDO  
MUNICIPAL CODE CHAPTER 13.24, AND DECLARING AN EMERGENCY**

**WHEREAS**, the Toledo City Council wishes to provide financial incentives for the development of multifamily housing units that will be used as affordable housing within the City of Toledo, as provided in ORS 197A.445 and ORS 197A.465; and

**WHEREAS**, both ORS 197A.445 and ORS 197A.465 were renumbered and placed into ORS Chapter 197A, entitled “Land Use Planning; Housing and Urbanization,” during the 2023 Legislative Session; and

**WHEREAS**, ORS 197A.465 allows the City of Toledo, notwithstanding ORS 91.225, to adopt a land use regulation, or functional plan provision (ie Overlay zone), or impose as a condition for approving a permit under ORS 227.178, a requirement that has the effect of establishing the sales or rental price for a new multifamily structure, or that requires a new multifamily structure to be designated for sale or rent as affordable housing; and

**WHEREAS**, such regulation, plan or condition is the mechanism providing the authority to the city under ORS 197A.465; and

**WHEREAS**, under ORS 227.178, final action is required within 120 days after an application is deemed complete, so the city must issue a permit, limited land use, or zone change decision within 120 days, but the System Development Charge (SDC) are not calculated until a building permit is issued, long after the land use approval has already occurred, which can be as long as two years later; and

**WHEREAS**, the requirement that the city impose conditions for approving a permit under ORS 227.178 is also problematic in that it is not inclusive, for example, for property located in the Residential-General (RG) zone, multifamily structures would be allowed outright, so no land use permit would be issued under ORS 227.178; and

**WHEREAS**, ORS 223.314 provides that the establishment or modification of a SDC is not a land use decision; and

**WHEREAS**, it makes logical sense for the City Council, who is in charge of the budget of the City, rather than the Planning Commission, to make the decisions related to whole or partial land use fee waivers or reductions, whole or partial waivers of SDCs, and other finance-based incentives in the development of affordable housing; and

**WHEREAS**, it makes sense that whole or partial waivers of SDCs be located in the Toledo Municipal Code Chapter 13.44, entitled “Affordable Housing,” rather than in the land use ordinances; and

**WHEREAS**, it is the intent that the City Council shall hold a public hearing, which is not a land use decision, to determine the impact of this ordinance on every multifamily affordable housing project, and such conditions established by Council shall then become conditions on the permit, provided to the Planning Commission within the 120 period required under ORS 227.178; and

**WHEREAS**, using its Home Rule, legislative authority, and the authority under ORS 197A.445 and ORS 197A.465, the City Council desires this ordinance, creating TMC Chapter 13.24, to apply to the development of all affordable housing projects, not just when a permit is required under ORS 227.178; and

**WHEREAS**, the Toledo City Council has a duty to ensure and protect the public health, safety and welfare of all residents of Toledo, and because of issues that need current attention, does declare that an emergency exists that requires that this ordinance to take effect immediately upon approval.

**NOW THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:**

Section 1. Section 2 of this Ordinance is amending Section 13.24.010 and Ordinance No 1335, § 3, dated 6-7-2010; Section 3 of this Ordinance is amending Section 13.24.120 and Ordinance No 1335, § 14, dated 6-7-2010; and Sections 4-13 of this Ordinance are added to and made a part of the Toledo Municipal Code (TMC), creating Chapter 13.44, entitled “Affordable Housing.”

Section 2. Section § 13.24.010 and Ordinance No 1335, § 3, dated 6-7-2010, is amended, in part, by deleting “ORS” and replacing with “Oregon,” by deleting “223.314” and replacing with “223.316,” and by adding “Except for multifamily affordable housing as provided in TMC Chapter 13.44,” to read, in its entirety, as follows:

**13.24.010 - Purpose.**

This chapter is intended to provide authorization for System Development Charges (SDC) for capital improvements pursuant to Oregon Revised Statutes (ORS) 223.297 through 223.316 for the purpose of creating a source of funds to pay for the installation, construction, and extension of capital improvements for water, wastewater, storm drainage, transportation, and parks. Except for multifamily affordable housing as provided in TMC Chapter 13.44, these charges shall be collected at the time of the development and redevelopment of properties which increase the use of capital improvements and generate a need for those facilities.

Section 3. Section § 13.24.120 and Ordinance No 1335, § 14, dated 6-7-2010, is amended, by deleting “The city of Toledo.” and replacing with “An application by, or on

property owned by, the city of Toledo.” in Subsection D., and by adding subsection F., to read, in its entirety, as follows:

**13.24.120 - Exemptions.**

- A. Additions to single-family dwelling that do not constitute the addition of a dwelling unit, as defined by the Zoning Code pursuant to Chapter 17.04 of this code are exempt from all portions of the system development charge.
- B. An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of a capital improvement are exempt from all portions of the system development charge.
- C. Any structure which is built to replace a structure that was destroyed, demolished or removed shall not be assessed systems development charges if construction of the new structure is completed within eighteen (18) months of the time that the original structure was destroyed, demolished, or removed; provided, however, that any new structure does not increase the usage of any capital improvement.
- D. An application by, or on property owned by, the city of Toledo.
- E. A building or other structure for which a building permit application was filed prior to the effective date of the charge or increase in the charge, providing the information accompanying the application was sufficiently complete to meet the requirements for issuance of a building permit for the entire structure, and substantial construction begins within one hundred eighty (180) days of the date the permit was issued. Accordingly, an owner shall otherwise remain responsible for those system development charges existing at the time charges are established and/or revised by resolution of the council pursuant to Section 13.24.040.
- F. Multifamily dwellings, a part of which is designated as affordable housing, as defined in Section 13.44.010, are exempt from systems development charges, to the extent, and only if, approved by the City Council pursuant to TMC Chapter 13.44.

Section 4. Section § 13.44.010 of the Toledo Municipal Code is added, to read in its entirety, as follows:

**13.44.010 –Purpose; Whole or partial waivers of System Development Charges.**

- A. The purpose of this Section is to reduce the costs of developing permanent affordable housing by exempting system development charges for qualified affordable housing developments. This section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City.
- B. The City may exempt qualified affordable housing developments from paying all or part of system development charges otherwise required by Code. Notwithstanding other provisions to the contrary, including Section

13.24.100, builders and developers of multifamily structures that have at least 20 percent of units designated as affordable housing may seek and the City may approve whole or partial waivers of the requirement to pay street, sewer, storm water, and other system development charges as provided in this Section.

- C. The City shall calculate exemptions in the manner authorized for calculating system development charges for rented and owner-occupied residential properties. Non-residential properties or the non-residential portion of mixed-use developments are not eligible for exemptions provided by this Section. Exemptions are applicable to the portions of residential properties that are directly used in providing housing for its low-income residents such as on-site manager units and shared space including but not limited to restrooms, community rooms and laundry facilities. To seek a whole or partial waiver of SDCs under this section, a builder or developer must file an application in a form provided by the City at the time of the land use or building permit application, and must pay a \$100 fee.
- D. When SDCs are waived as set forth in this section, the SDCs will be calculated at the time the waiver application is filed. Although the calculation will occur first, the waiver will not occur until approved by the City Council in a public hearing under Section 13.44.050. All timelines for challenging the calculation of SDCs run from this date of calculation, and not from the due date for payment of SDCs as set forth below in Section 13.44.030.

Section 5. Section § 13.44.020 of the Toledo Municipal Code is added, to read in its entirety, as follows:

**13.44.020 - Definitions.**

For the purposes of TMC Chapter 12.44, the following definitions shall apply:

- A. “Affordable housing” means housing that is affordable to households with incomes equal to or higher than 80 percent of the median family income for Lincoln County.
- B. “Continuing Care Retirement Communities” or “CCRC” registered with the Department of Human Services to provide continuing care under a residency agreement, and subject to ORS Chapter 101, are excluded from and not eligible to benefit under this Chapter.
- C. “Defer” or “Deferral” means to pay SDCs at a later time.
- D. “Multifamily residential structure” means a structure that contains three or more housing units sharing at least one wall, floor or ceiling surface in common with another unit within the same structure, except a CCRC is excluded.

- E. “Waive” or “waived” means forgiving or not collecting the SDCs.
- F. “Substantial quality of life improvement” is any improvement, appurtenance, building, accessory building or other benefit to the future residents that will improve the quality of life, including the environment, recreation and leisure time. Whether “substantial” is determined in the sole discretion of the City Council, by finding that that improvement, appurtenance, building, accessory building, or other benefit to be of considerable importance if they were in fact living in the structure.

Section 6. Section § 13.44.030 of the Toledo Municipal Code is added, to read in its entirety, as follows:

**13.44.030 – Eligibility for waiver of SDCs; Election.**

The amount of SDCs which may be waived, wholly or partially, as decided in a public hearing under Section 13.44.050, as provided in this section, is as follows:

- A. For builders or developers that elect to have at least 20 percent of the units in a multifamily residential development (MRD) designated as affordable housing, under Subsection B of this Subsection, the waiver of SDCs shall occur based on the percentage of the residential units in a development that is designated for an affordable housing use:
  - 1. For each multifamily residential structure, consisting of less than 5 units, if at least:
    - 33% of the units are designated as affordable housing, then waiver of 40% of total SDCs
    - 66% of the units are designated as affordable housing, then waiver of 70% of total SDCs
    - 100% of the units are designated as affordable housing, then waiver of 90% of total SDCs
  - 2. For each multifamily residential structure, consisting of 5 or more units, if at least:
    - 20% of the units are designated as affordable housing, then waiver of 30% of total SDCs
    - 40% of the units are is designated as affordable housing, then waiver of 50% of total SDCs
    - 60% of the units are designated as affordable housing, then waiver of 70% of total SDCs
    - 80% of the units are designated as affordable housing, then waiver of 85% of total SDCs
    - 100% of the units are designated as affordable housing, then waiver of 95% of total SDCs

Regardless of how many units are in a residential structure, and irrespective of Subsection A of this Subsection, the City Council may, for a non-profit entity whose primary purpose is to build affordable housing, waive SDCs, or waive a partial amount and defer the rest under Subsection A of Section 13.44.040, for an affordable housing project.

- B. The City requires that at least 20 percent of housing units within a multifamily structure to be sold or rented as affordable housing at or below-market rates, except as provided in Subsection C of this section, but the builder or developer may voluntarily agree to more than 20 percent of the units being designated as affordable housing.
- C. As an alternative to Subsection B of this Section, the City provides the builder or developer the option to elect to pay an In-Lieu fee, instead of providing the requisite number of affordable housing units within the multifamily structure to be sold or rented at below-market rates as required in Subsection B of this section. When the applicant elects the In-Lieu fee option, the In-Lieu fee must be paid at the time of building permit issuance. The In-Lieu fee per gross residential and residential related square foot (GSF) of the proposed building is:
  - 1. For structures within the City and located within the Urban Renewal District (URD) boundaries: Fee per GSF \$23
  - 2. For structures within the City but outside the URD boundaries: Fee per GSF \$27

The In-Lieu fee option under Subsection C of this Section results in no waiver of SDCs under Subsection A of this Section or other incentives under Section 13.44.040.

Section 7. Section § 13.44.040 of the Toledo Municipal Code is added, to read in its entirety, as follows:

#### **13.44.040 – Additional Incentives.**

For those builders or developers that elect to have at least 20 percent of the units as affordable housing under Subsection B of 13.44.030, but excluding those builders or developers that elect instead to pay an In-Lieu fee under Subsection C of 13.44.030, the following additional voluntary incentives, not guaranteed, but after a hearing before the City Council under Section 13.44.050, are available, if approved by City Council, in its sole discretion, and documented in the resolution that is the decision of the City Council, as follows:

- A. Payment of SDCs not waived may be deferred to time of sale, or time of actual occupancy, whichever occurs first. For purposes of this section, “time of sale” refers to sale of a structure, not sale of a bare lot. In circumstances where payment of SDCs has been deferred until time of sale, the SDCs shall be paid by the seller as opposed to the buyer.
- B. Whole or partial land use fee waivers or reductions are available.

- C. Full or partial exemption from ad valorem property taxes as described in this subsection may be available. Pursuant to the authority granted to the City under ORS 197A.465, for the purposes of any state statute granting a full or partial exemption from ad valorem property taxes that uses a definition of “low income” to mean income at or below 60 percent of the area median income and for which the multifamily structure is otherwise eligible, the city will allow the multifamily structure of the developer to qualify using a definition of “low income” to mean income at or below 80 percent of the area median income.
- D. The City Council may also offer one or more of the following incentives, if the City Council makes a finding that the increased density will result in at one or more additional affordable housing units, one or more additional bedrooms in a housing unit or structure, or other benefit deemed a substantial quality of life improvement by the City Council, the following incentives may be offered, or typical standards modified, as follows:
  - 1. Density adjustments. After the City Council makes the finding in Subsection D. of this Section, as a local density bonus, an authorized density may be increased up to 150 percent of the authorized density, for a multifamily affordable housing development, by modifying one or more of the following standards:
    - (a) Minimum lot size, under Section 17.08.050 or 17.12.060;
    - (b) Setbacks, provided approval of Fire Code Official, under Section 17.08.060 or 17.12.070;
    - (c) Lot coverage, under Section 17.08.080 or 17.12.090; and
    - (d) Cottage cluster density requirements, under Section 17.08.090 or 17.12.040.
  - 2. Modification of height, floor area or other site specific requirements. If the City Council makes a finding in Subsection D. of this Section, one or more of the following incentives may be offered, or typical standards modified, as follows:
    - (a) Height, under Section 17.08.070 or 17.12.080, by adding up to 12 additional feet to the principal building;
    - (b) Design features, under Subsection A of Section 17.08.090;
    - (c) Cottage cluster requirements, under Subsections F of Section 17.08.090 or F of Section 17.12.040;
  - 3. Other financial incentives determined by the City council in the public hearing, but only if the City Council determines that the financial incentive will result in one or more additional affordable housing units, one or more additional bedrooms in a housing unit or structure, or other benefit deemed a substantial quality of life improvement by the City Council.
- E. The purpose of these additional incentives in this Section is to:
  - 1. Increase the number of affordable housing units in a development;
  - 2. Decrease the sale or rental price of affordable housing units in a development; and

3. Build affordable housing units that are affordable to households with incomes equal to or lower than 80 percent of the median family income for Lincoln County.

Section 8. Section § 13.44.050 of the Toledo Municipal Code is added, to read in its entirety, as follows:

**13.44.050 – Public Hearing; Affordable Housing.**

When a land use application for multifamily housing is submitted to the City that includes, or may be a good candidate for, affordable housing, the application shall be scheduled before City Council, instead of the Planning Commission, and such building permit shall be reviewed by staff, under this Section:

- A. The City Council shall hold a public hearing, where it shall accept public testimony and negotiate with the builder or developer, based on the applicant's plan submitted to the city prior to the public hearing, to determine if the builder or developer will voluntarily agree to increase the number of units to or above the 20 percent of the multifamily structures designated as affordable housing units. The Council will decide in the public hearing and memorialize the conditions of the agreement with the builder or developer, including the percent of the multifamily structures designated as affordable housing units, the amount of any waiver SDCs under Section 13.44.030, the amount of the deferral of SDCs and additional incentives under Section 13.44.040, and the conditions and requirements imposed under this Section. The conditions of agreement will be adopted by Council, by resolution, including findings supported by substantial evidence demonstrating the necessity for the conditions, including, without limitation, any density and height level modifications under Section 13.44.040. If applicable, such resolution will be provided to the City Planning Department as conditions of the city's final decision within 120 days after a land use application is deemed complete under ORS 227.178. If the plan changes, after the conditions of agreement are established in a hearing held under this Section, including when the building permit plans are submitted, any significant changes will go back before City Council for a second hearing.
- B. The hearing held under this section, adopted findings, and conditions of agreement decided by the City Council and agreed to by the builder or developer, are not a land use decision, and can't be appealed to the Land Use Board of Appeals (LUBA). The City Council decision for a SDC waiver under this Section does not bias or influence any pending or future land use decision by City staff, Planning Commission or appeals to City Council or LUBA. The Council's decision including SDC waiver shall be void if land use application or building permit application is denied or expires. Except if noted in the City Council's resolution memorializing the initial decision, a new SDC waiver request will need to be submitted if the land use application or building permit application is re-submitted.

- C. The City shall allow affordable housing, if the affordable housing project is on property located within the corporate limits of the city, that is:
1. Owned by a public body as defined in ORS 174.109, non-profit corporation that is organized as a religious corporation, a non-profit corporation that is organized as a public benefit corporation whose primary purpose is the development of affordable housing, a housing authority, as defined in ORS 456.005, or a manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803; or
  2. Zoned for commercial use, to allow religious assembly, used for public services, or in the Public Lands Zone; or
  3. Zoned for industrial uses, but only if the property is publicly owned, adjacent to lands zoned for residential uses or schools, and not specifically designated for heavy industrial uses.
  4. Residential zones, where the developer or non-profit corporation at least meets the 20% affordable housing requirement in Subsection B. of Section 13.44.030, or pays the In-Lieu fee under Subsection C. of Section 13.44.030.
- D. Subsections C(1) and (2) of this Section prohibit the City from requiring a zone change or conditional use permit, at any time, before the City approves the affordable housing use.
- E. Subsection C does not apply where an application for a permit, as defined in ORS 227.160, has been submitted as provided in ORS 227.178 (3), or, if such a permit is not required, a building permit application has been submitted to the city prior to the effective date of this Chapter.
- F. Subsections C(1) and (2) of this Section does not apply on land where the City Council determines that:
1. The development of the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served by the development on the property is complete;
  2. The property contains a slope of 25 percent or greater;
  3. The property is in the 100-year floodplain; or
  4. The property is constrained by land use regulations based on statewide planning goals related to natural disasters and hazards, natural resources, including air, water, land or natural areas, but not including open spaces; except, however, if the property is located within the 100 year floodplain or constrained by land use regulations related to natural resources or hazards, then Subsection D. of this Section shall apply if more than 60 percent of the lands are located within the Tsunami inundation zone or 30 percent of the lands within the urban growth boundary are located within the 100-year floodplain. As described in this Subsection, regardless of the prohibition in Subsection D. of this Section, the City Council may prohibit affordable housing or require a zone change or conditional use permit to develop affordable housing in such areas described in this Subsection.

- G. Development under Subsection F(4) may only occur:
1. In locations that do not include floodways or other areas with higher risks of greater water velocity and debris flow;
  2. Where emergency response, evacuation and post-disaster plans that have been updated for the housing development; and
  3. In areas that are not public parks.
- H. In the event that an applicant violates the conditions of agreement, findings, covenants, or other requirements that are established by the City Council as a condition of approval during the public hearing, the City shall terminate the exemption and make due and payable all previously exempt portions of system development charges based on rates in effect on the date of the submittal of a complete building permit application, plus accrued 9 percent per annum interest from the date of the issuance of the building permit to the date of the termination of the exemption. The City may record and foreclose liens and take all other actions necessary to collect the SDCs. The developer may be asked to show periodic compliance that the conditions of agreement, findings, covenants, or other requirements that are established by the City Council are being met.

Section 9. Section § 13.44.060 of the Toledo Municipal Code is added, to read in its entirety, as follows:

**13.44.060 – Requirements and Conditions.**

When builders and developers of multifamily structures that have at least 20 percent of units designated affordable housing have SDCs waived, wholly or partially, under Section 13.44.030, and are offered other incentives under Section 13.44.040, as conditions of approval, the City Council will require:

- A. An instrument, real property covenants, or deed restrictions, recorded in the deed records for properties receiving exemptions and incentives under this Chapter, that binds the owners of the property and successive owners to continue the agreed upon percentage of affordable housing units in the multifamily residential structure to be sold or rented at below-market rates for a period of up to 40 years. The recording, as well as annual reporting to the city, when requested, will be required in order to ensure compliance, or to provide remedies for failure to restrict units, or both. The recording may be used by the City in order to restrict sale prices and rents charged for exempt units, or to provide remedies for failure to restrict units, or both. If a future tenant improvement or change of occupancy creates a use that is not affordable housing, system development charges will be assessed for the new use.
- B. A contract that binds the builder or developer and successive owners to the covenants, agreements and other requirements established by City Council

including the agreed upon percentage of affordable housing units, the amount of SDCs waived under Section 13.44.030, the amount of SDCs deferred under 13.44.040, other incentives under Section 13.44.040, and the amounts that the units will be sold or rented at below-market rates. This contract will include a reference to subsection B of Section 13.44.050 as part of the agreement.

- C. A lien shall be placed upon the property containing the multifamily structure in the amount of the SDCs. The lien shall be entered at least sixty days after approval of the application for SDCs. The City's lien shall have priority ahead of all other liens except as prohibited by any applicable law. The City's lien may be foreclosed as a municipal assessment lien pursuant to ORS 223.505 to 223.595 or through any other legal process.
- D. SDCs deferred under this section do not accrue interest until they are due as set forth in Section 13.44.040. If not paid when due, SDCs will accrue interest from that due date at the rate established in the most recent fee schedule approved by resolution of the City Council.
- E. The City Attorney's Office may enforce the provisions of this code on behalf of the City in any court of competent jurisdiction or City administrative body. The City may pursue any remedy available at law, or in equity, including but not limited to injunctive relief, and other remedies such as foreclosure, or receivership if the financial penalties established by the findings, this code, recorded instrument, or other agreement, if not timely paid in accordance with the timeframe prescribed, in the Toledo Municipal Court, or other court of competent jurisdiction.

Section 10. Section § 13.44.070 of the Toledo Municipal Code is added, to read in its entirety, as follows:

**13.44.070 –Effect of monies previously collected.**

The provisions of this Chapter do not apply to systems development charges collected prior to its effective date. Use of funds previously collected shall be governed by the law in effect at the time of collection.

Section 11. Section § 13.44.080 of the Toledo Municipal Code is added, to read in its entirety, as follows:

**13.44.080 – No Restriction of Powers of Eminent Domain; Severability**

- A. This Chapter shall not be construed to restrict the City's existing authority to exercise powers of eminent domain through condemnation as outlined in state law.
- B. If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

Section 12. Section § 13.44.090 of the Toledo Municipal Code is added, to read in its entirety, as follows:

**13.44.090 – Emergency Clause.**

This ordinance being necessary for the immediate preservation of the public welfare, health and safety, an emergency is declared to exist and this ordinance shall take effect upon its passage.

This Ordinance adopted by the Toledo City Council this 26<sup>th</sup> day of June, 2024.

APPROVED:

ATTEST:

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Mayor Rod Cross

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City Recorder Lisa Figueroa



**CITY OF TOLEDO  
REQUEST FOR COUNCIL ACTION**

| <b>Council Goal:</b>            | <b>Meeting Date:</b>            | <b>Agenda Topic:</b>                                                                                                                             |
|---------------------------------|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. None                         | <b>May 28, 2025</b>             | Authorize City Manager Pro Tem to remove a specific employee if warranted, as required by City Charter, City Charter, Chapter IV, Section 4.2(g) |
| Not Applicable                  | <b>Agenda Type:</b>             |                                                                                                                                                  |
|                                 | Consent Agenda                  |                                                                                                                                                  |
| <b>Prepared by:</b>             | <b>Reviewed by:</b>             | <b>Approved by:</b>                                                                                                                              |
| City Manager Pro-Tem<br>D.Clyne | City Manager Pro-Tem<br>D.Clyne | City Manager Pro-Tem<br>D.Clyne                                                                                                                  |

**Recommendation:**

Motion to approve the City Manager Pro Tem's decision of termination of a Public Works - Maintenance Worker II employee for cause pursuant to Section 4.2(g) of the City of Toledo Home Rule Charter ("Charter").

**Background:**

Decision for termination by the City Manager Pro Tem follows investigation and pre-disciplinary hearing before the City Manager and the Public Works Director on May 9, 2025. The matter has been reviewed by CIS pre-loss, Miller Nash and our labor Counsel, Pierre Robert relative to their respective responsibilities on behalf of the City.

Specifically, Miller Nash concluded that our practices and the Charter require the approval of the termination decision while at the same time permitting the withholding of the specific employee identification information at this juncture to preserve privacy for the affected employee.

The Charter, Chapter IV, Appointive Officers, Section 4.2(g), provides, in part, as follows:

"The City Manager Pro Tem has the authority and duties of city manager, except that a City Manager Pro Tem may appoint or remove employees only with council approval."

Specifically, the employee has been found to have violated the following Employee Handbook Offenses That May Result In Immediate Termination (p. 24):

7. Striking out or hitting another employee, regardless of the reason. In addition, provoking another employee into striking or threatening another employee.

12. Physical or verbal abuse of a citizen, vendor, other employee, or any other individual.

| <b>Fiscal Impact:</b>       | <b>Fiscal Year:</b> | <b>GL Number:</b> |
|-----------------------------|---------------------|-------------------|
| <b>Unknown at this time</b> | <b>2024-2025</b>    | <b>N/A</b>        |

**Attachment:**

None 2025 Toledo City Council packet



**CITY OF TOLEDO  
REQUEST FOR COUNCIL ACTION**

| <b>Council Goal:</b>                | <b>Meeting Date:</b>         | <b>Agenda Topic:</b>               |
|-------------------------------------|------------------------------|------------------------------------|
| Not Applicable                      | <b>May 28, 2025</b>          | Discussion of Street Lighting Fees |
|                                     | <b>Agenda Type:</b>          |                                    |
|                                     | Discussion Items             |                                    |
| <b>Prepared by:</b>                 | <b>Reviewed by:</b>          | <b>Approved by:</b>                |
| Interim Finance Director J. Richter | City Manager Pro-Tem D.Clyne | City Manager Pro-Tem D.Clyne       |

**Recommendation:**

Staff has no recommendation but is looking for direction to bring back resolution to a future meeting.

**Background:**

Street lighting fees are included in the monthly utility bills and are reviewed yearly and adjustments made on July 1. The last rate adjustment was July 1, 2023. Fees were set as follows:

|                             |                   |
|-----------------------------|-------------------|
| Residential Street Lighting | \$8.75 per month  |
| Commercial Business         | \$17.50 per month |
| Industrial Business         | \$30.00 per month |

The 2025-2026 Budget shows expected revenue from Street Lighting fees to be \$150,000 while budgeted expenditure is \$165,000. What is not known at this time is whether Central Lincoln PUD will raise rates for the coming year.

| <b>Fiscal Impact:</b> | <b>Fiscal Year:</b> | <b>GL Number:</b>     |
|-----------------------|---------------------|-----------------------|
| <b>Unknown</b>        | <b>2025-2026</b>    | <b>001-000-401750</b> |

**Attachments:**

None

[illegible]